SENATE—*Wednesday, September 16, 1987*

The Senate met at 8:30 a.m., and was called to order by the Honorable HARRY REID, a Senator from the State of Nevada.

PRAYER

The Chaplain, the Reverend Richard C. Halverson, D.D., offered the following prayer:

Let us pray.

The Lord is my shepherd, I shall not want. He leadeth me * * *.—Psalm 23:1.

Mighty Lord, in the pragmatic world of politics, it is easy to treat the words of the Shepherd's psalm as beautiful and irrelevant to hard, harsh reality. But in so doing, we deprive ourselves of the solid promise, "I shall not want"—we compound our confusion in rejecting Your promised leadership. We walk in darkness because we refuse Your light. Gracious Shepherd, the Senate confronts an impossible agenda. The mountain of legislative responsibility—plus the atmosphere of controversy and conflict—the relentless shadow of a faraway national election—the critical urgency of momentous issues impose a superhuman reality demanding superhuman wisdom, direction, energy, and effort. Patient God, forgive us for our indifference to Your word and awaken the Senate to the availability of the Good Shepherd and His faithfulness to fulfill His promise. Teach them to walk in His way for their own satisfaction, the good of the Nation and the glory of God. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore [Mr. STENNIS].

The assistant legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, September 16, 1987.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable HARRY REID, a Senator from the State of Nevada, to perform the duties of the Chair.

JOHN C. STENNIS,
President pro tempore.

Mr. REID thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF THE ACTING DEMOCRATIC LEADER

The ACTING PRESIDENT pro tempore. Under the standing order, the acting Democratic leader, the Senator from Wisconsin, is now recognized.

Mr. PROXMIRE. Mr. President, I ask unanimous consent that the time of the majority leader and the minority leader be reserved for their use later in the day.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. PROXMIRE. I understand that under the order, we now have time for morning business. Is that correct?

The ACTING PRESIDENT pro tempore. The Senator is correct.

WHY WE CAN HAVE EITHER ARMS CONTROL OR SDI, BUT NOT BOTH

Mr. PROXMIRE. Mr. President, President Reagan has announced that after the agreement between the two superpowers eliminating intermediate and short-range nuclear weapons from Europe has been reached, the next step on the arms control agenda is a mutual United States-Soviet 50-percent reduction in strategic nuclear missiles. Sounds great. Is such an agreement possible? Would the Soviets agree to cut their 10,000 strategic nuclear warheads in half, if we agreed to do the same with our 10,000 strategic warheads? The answer is almost certainly an emphatic "No!" Why no? Because there is one sure way the Soviet Union could lose the credibility of its deterrent.

Here's what it would require: First, it would take a sharp reduction in the Soviet strategic nuclear warheads. The 50-percent reduction would constitute a good first step. It would require an intense development and deployment of an advanced United States missile defense, a strategic defense initiative [SDI] that might work if the Soviets could be persuaded to reduce their strategic warheads enough. How much is enough? Perhaps down to 1,000 or 2,000 or, if possible, less. This reduction of Soviet warheads is the one absolutely prime prerequisite for the success of SDI. If through arms control we could persuade the Soviets to limit their nuclear arsenal, if we could further persuade them to confine their arsenal to stationary land-based missiles, and if we could find a way to limit the missiles that carry the Soviet warheads to the present slow-burn launchers, we just might be able with our SDI kinetic kill vehicles to convince the Soviets that we could stop enough of their missiles in any preemptive attack that much of the United States could survive and the once great Soviet nuclear deterrent might no longer be able to deter an American nuclear attack.

Is this scenario ridiculous? Of course, it is. There is no way the Soviets will agree to a 50-percent reduction in their offensive nuclear deterrent or, indeed, to any reduction or even a limitation on expansion of their deterrent as long as we appear to be on the verge of deploying SDI. The Soviets surely understand that they can overcome SDI by simply expanding their nuclear deterrent by whatever multiple they calculate SDI can reduce their penetration to U.S. targets. If SDI can stop 50 percent of their penetration, they double their warheads; 90 percent, they increase their warheads by a factor of 10. This is the way the other side neutralizes any SDI progress. An administration that wants an arms control agreement with the U.S.S.R. to reduce both arsenals abides by the ABM Treaty and keeps SDI in its research phase. An administration that wants the U.S.S.R. to reject United States offers to cut both arsenals by 50 percent can achieve that by simply pushing ahead with SDI. This is precisely what the Reagan administration is doing. So how do we persuade the Soviets to cut their nuclear arsenal from the present 10,000 down to 5,000? We agree to continue to keep the ABM Treaty with its strict formal interpretation in effect.

Some argue that the Soviets could agree to cut their nuclear warheads to 5,000 with no significant risk no matter what we do with SDI. They would contend that no conceivable SDI that we could develop in the next 25 or 30 years could possibly prevent more than 90 percent of the U.S.S.R. warheads from penetrating the SDI defense. A 10-percent penetration by U.S.S.R. warheads would mean that 500 warheads would strike United States cities. The National Academy of Science experts tell us that 100 Soviet warheads reaching American targets would devastate our cities and kill between 35 and 55 million Americans. So why wouldn't 5,000 Soviet warheads be enough to continue a credible Soviet deterrent? The answer is because neither the Soviet nor the American experts have any real idea how effective SDI might be. We wouldn't know until a few minutes after the first preemptive strike.

So, what do nations do when faced with the kind of terrible uncertainty that their deterrent might lose credibility? They assume the worst. So they keep building their nuclear arsenal. They certainly do this when the cost

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

of multiplying their offensive nuclear warheads is so much less than the SDI cost of defending against such an endless offensive buildup.

In conclusion, it is clear that to put a cap on this terribly dangerous race to build up offensive nuclear arms is an essential first step to preventing an accidental or calculated catastrophe. It would be even better to actually reduce these insanely redundant arsenals as the President has said he wishes to do. But to take either of these steps, it is critical that both sides recognize that attempts by either to weaken or destroy the credibility of the other's deterrent by an antimissile defense—an SDI—is sure to destroy any prospect of an offensive nuclear limitation or reduction agreement by the other side. We must make up our minds. We can have a comprehensive arms control, limiting nuclear weapons on both sides, or we can have a strategic defense initiative that will threaten the other side's deterrent. We cannot have both.

MORNING BUSINESS

Mr. KARNES. Mr. President, a parliamentary inquiry. What time allotments do we have this morning?

The ACTING PRESIDENT pro tempore. Under the previous order, there will now be a period to transact morning business, not to extend beyond 9 a.m., with Senators permitted to speak therein for up to 3 minutes each.

Mr. KARNES. I thank the Chair.

PROTECTING "PIK" FROM THE IRS

Mr. KARNES. Mr. President, I am pleased to take the floor today to discuss an important piece of tax legislation designed to protect farmers from the Internal Revenue Service attempt to "pick away" at the PIK and Roll Program. I would like to thank my good friends and colleagues, Senators GRASSLEY and DOLE, for their assistance and cooperation in moving this matter to the attention of the Senate. I am confident that this bill will help many farmers in Nebraska, Iowa, and Kansas, as well as other farm States.

Mr. President, the problem farmers face is based on an IRS revenue ruling, issued earlier this year, the day after the income tax filing deadline for most farmers and months after the time they had to make their tax planning decisions. Potentially, it affects every farmer in this country that participates in the PIK and Roll Program. The IRS ruling would have the effect of increasing this year's income tax burden of those farmers. It would not increase their actual income, but it would tax them as though they had suddenly given themselves a large pay raise.

The bottom line is that farmers would be effectively forced to pay higher income taxes—substantially higher—for this year than they planned for. I think this is wrong. I think it is counterproductive. I think it is bad for planning. Worst of all, I know it is bad for the financial condition of many of our farmers who have weathered the storm of the farm economy and are looking forward to keeping some of the money they earn in their own pockets for a change.

My legislation would reverse the recent ruling, restoring the more favorable tax treatment for PIK and roll transactions.

The Revenue ruling, 87-17, has a significant impact on cash basis taxpayers who declare Commodity Credit Corporation loans as loans rather than as income. Normally, if the loan is forfeited at the time of maturity, the loan proceeds are taxed at that time. If the loan is repaid in cash before its maturity, no taxable event occurs.

But the Revenue ruling treats the loan as a forfeiture when PIK and rolled. The IRS takes the position that CCC loan redemptions with PIK certificates constitute a sale of grain, making the transaction fully taxable immediately. Prior to this ruling, producers presumed that the transaction did not result in taxable income until the grain was sold, unless the taxpayer elected to treat the loan as income.

Of course, the irony of this situation is that if a farmer pays back his Commodity loan with a cash payment, no income is realized at the time the payback is made. However, the ruling requires that if that same payback is made with a PIK certificate, then income is realized at that time. Mr. President, it would seem to this Senator that such a distinction in the law will not do much for the confidence of farmers in the PIK certificates they hold—not when those certificates may cost them at tax time.

The ruling will have a dramatic impact upon those farmers who last year forfeited the grain securing their 1985 Commodity loan, then PIK and rolled the 1986 crop with the expectation that it would be counted as 1987 income. Under the new ruling, these farmers will have income from 2 crop years upon which they will have to pay taxes.

Mr. President, the answer is clear. We should allow the farmers to consider their certificates "as good as cash" for the purposes of paying back their Commodity loans. We should take out the uncertainty and, in their case, the punishment involved in participating in PIK and roll.

I hope the Senate will expedite consideration of this legislation so that the farmers of this Nation may continue their operations without the prospect of paying an inordinate amount of their income to the Treasury next year based on Revenue ruling 87-17.

I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Idaho is recognized.

ON DISREGARD FOR CONSTITUTIONAL PRINCIPLES IN THE CLEAN AIR ACT AMENDMENTS BEFORE THE SENATE ENVIRONMENT AND PUBLIC WORKS COMMITTEE

Mr. SYMMS. Mr. President, two centuries ago, representatives from the original American Colonies convened in Philadelphia in an effort to bring unity and order out of their newly won freedom. Four months later, on September 17, they submitted to the Nation a Constitution. Benjamin Franklin, George Washington, James Madison, and the 36 other signers of this new document testified to its lasting value. They firmly believed it contained the principles of good government needed to safeguard liberty, creating a rule of law and not of men or tyrants.

As the convention closed, Franklin expressed his hope that this Constitution would rise like the Sun on a bright new day for human freedom and balanced government. For the first time in centuries, limited power was being granted by the people to the government, and not vice versa. It was the first step in one of the greatest experiments of history, an experiment known as the United States of America.

I, for one, believe that experiment has proven a success. If you want proof, all we have to do is just look around. In the course of the Constitution's bicentennial celebration, Americans across the Nation are thanking in word and song the Founding Fathers who bequeathed to us today a free and properous nation.

But we must remember, Mr. President, that freedom and prosperity don't come without a price. In 1852, a Boston abolitionist named Wendell Phillips accurately noted that the price of liberty is eternal vigilance. Our freedom will not survive if we ignore the principles embodied in the Constitution. On occasions, I have seen this very Congress deviate from those principles with devastating effect. There is no better example of such constitutional abandonment than the Clean Air Act amendments currently being considered by the Senate Environment and Public Works Committee.

I do not want to impugn any of the motives of my colleagues, Mr. President, and let me first credit the bill's authors with having the best of intentions, and I repeat that they have the highest intentions to protect the qual-

ity of America's most shared resource, air. But as Justice Marshall said of Federal laws, it is not enough that their "end be legitimate"; the means to that end chosen by Congress must not contravene the spirit of the Constitution.

Mr. President, the committee's clean air legislation not only contravenes but outright tramples on the spirit of our Constitution. James Madison, the noted father of that revered document wrote, "The powers delegated by the proposed Constitution to the Federal Government are few and defined." He further pointed out that one of the greatest tasks of government was to oblige it to control itself—oblige it to control itself. I repeat that, Mr. President.

And yet the proposed clean air bill that is before the Environment and Public Works Committee today places nothing beyond the grasp of oppressive Federal regulation. Would you believe, Mr. President, it even goes so far as to control the baking of bread. Deeming the fumes rising from baking bread—not from the combustion heating the oven, but from the bread itself—to be an air pollutant, this bill would force bakeries to either install million-dollar emissions control devices, or bake only wheat breads that do not ferment as much.

Such an intrusion of the Government into the lives of Americans is as contrary to the spirit of the Constitution as can be imagined. What limits to Federal power exist if Government is permitted to control aspects of private American life as intrinsic as the baking of bread? And it is not just bakeries that would bear this burden. The bill comes down hard on many already heavily regulated industries such as automobile manufacturers, oil and gas companies, and chemical plants. It goes even further to regulate dry cleaners, paint companies, farmers, and countless other industries whose contribution, if any, to overall pollution is insignificant.

Certainly King George himself was never as intrusive of people's lives as this bill would purport to be. What would General Washington and his compatriots have thought had they know they had defeated the heavy hand of Britain only to be subjugated to a government as burdensome as that proposed in this clean air bill.

I find it difficult to understand how legislation that would drive independently owned bakeries out of business for no significant reason could even be considered by this Congress. Thomas Jefferson certainly knew the fallacy of such a policy. He commented in his time that, "Our legislators are not sufficiently appraised of the rightful limits of their power—that their true office is to declare and enforce only our natural rights and duties, and to take none of them from us."

It is interesting to note that on one occasion as President, Mr. Jefferson wrote: "The path we have to pursue is so quiet that we have nothing scarcely to propose to Congress. A noiseless course, not meddling with the affairs of others, unattractive of notice" was his preferred mode of operation.

Mr. President, the proposed clean air bill which is now pending before the committee, which will be brought up this morning in that committee for markup, as a matter of fact, is far from unattractive of notice. My office has been flooded with calls and letters from individuals who are in fear of losing their livelihoods. I have heard from many in the automotive industry who are concerned with the 10-year/100,000-mile warranty mandated by the bill. Let me share a typical comment and statement from one of those, who express his concern, from a letter that I received:

> This bill with its extended warranty period would present a tremendous problem to everyone in the automotive aftermarket, which I am sure you will agree, adds greatly to America's economy. Not only is this bill anticonsumer, it is also anticompetitive, granting new car dealers a virtual monopoly on parts and service which is something that they have never been able to come close to achieving in an open marketplace. The business community in this country became the greatest in the world by utilizing a free and open competitive market. I feel that this bill is taking a stone from the very foundation of American business that it has taken over 200 years to build.

Mr. President, I have received hundreds of letters making similar comments. Nothing could be further from Mr. Jefferson's advice to Congress: that it pursue noiseless courses that do not meddle in the affairs of others. These automotive repair shops and parts stores are not begging for money, or for special tax treatment, or even for lenient environemtnal regulation. They are merely pleading for the freedom to compete, to be allowed to sell their goods and services free of Government interference. One of the underlying and fundamental axioms of our Constitution is, as Alexander Hamilton wrote, that "an American's entitlement to freedom is incontestible." I repeat that: "An American's entitlement to freedom is incontestible." What are we even proposing legislation like this for, legislation that would put small bakeries out of business, legislation that would preclude small, independent repair shops from working on automobiles, that would fix into law that they have to go to a certain dealership in order to have their car repaired or fixed to comply with Federal regulations.

In the words of Thomas Jefferson: "The freedom and happiness of man * * * [are] * * * the sole objects of all legitimate government." I am as concerned with air pollution as any of my colleagues, and dealing with it will undoubtedly bring about happiness. But if there is a lesson taught by our Constitution, it is that true happiness is not obtained by Government at the expense of freedom. I am convinced that free people safeguarding their constitutionally recognized property rights will breath cleaner air than a people coerced by the whips and chains of Government, an oppressive government.

Mr. President, let us put aisde legislation such as these supposed "clean air" amendments and celebrate the bicentennial of the Constitution by remembering its main purpose, "To secure the blessings of liberty to ourselves and our posterity." May our intention be, as President Reagan has said, "To renew the meaning of the Constitution. To rescue from arbitrary authority the rights of the people. Together, then let us restore constitutional government. Let us renew and enrich the power and purpose of States and local communities and let us return to the people those rights and duties that are justly theirs."

Mr. President, I yield the floor.

Mr. President, I note the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

THE JOURNAL

Mr. BYRD. Mr. President, I ask unanimous consent that the Journal of the proceeding's be approved to date.

The ACTING PRESIDENT pro tempore. Hearing no objection, that is the order.

PROGRESS ON THE DEFENSE BILL

Mr. BYRD. Mr. President, late last night the Senate was able to begin acting on the Department of Defense authorization bill. Our friends on the other side of the aisle thought better of their filibuster strategy, and we were able to have rollcall votes on amendments and proceed with the important work on this bill.

I hope the action which began last night will accelerate today, and that amendments can be debated, voted on, and disposed of. It is high time that this important bill which authorizes the programs vital to our national defense be enacted by the Senate, sent to a conference with the House, and put on the President's desk.

91-059 O-89-36 (Pt. 17)

Debate will occur today on an amendment which relates to the section of the bill which has attracted the most attention and generated considerable controversy. I assume there will be considerable debate on this amendment or motion offered by the Senator from Virginia [Mr. WARNER]. This debate will be enlightening, it will be vigorous, and then the Senate will decide this important issue concerning the ABM Treaty.

Mr. President, the debate on this amendment could very well go on all day. But again I want to say that it is important that the Senate act on this bill. Time is running out and the calendar is running out. There is no longer any reason to believe that this Senate can complete its work in October or in early November or perhaps even late in November. Through necessity, the Senate is now at a point where it is going to be forced to stay in session for very long days. And as long as this Defense authorization bill is before the Senate, I intend for the Senate to stay in for many hours every day.

As long as there is no filibuster there will not be any all-night session. But the Senate will be coming in early every day and it will be staying in late every day. There is no way around it. We have too much to do. There are too many amendments and too many of them are controversial and, therefore, will require some considerable time for legitimate debate.

WHAT KIND OF SIGNAL ARE WE SENDING?

Some Senators were given to understand yesterday that the actions of the Senate might send signals to the Soviet Union since the Soviet Foreign Minister, Mr. Shevardnadze, is currently in town for discussions with the administration. What kind of signals are we sending with prolonged filibusters on this bill? First, the bill is important.

The bill is for a strong defense for the United States. The chairman and the ranking member and other members of the Armed Services Committee have produced a bill that allocates over $300 billion to our national defense. It funds vital programs at levels sufficient to ensure that our defenses will remain strong for the rest of this century. Mr. Shevardnadze should recognize that a broad consensus exists in the Senate for a strong national defense.

The second signal that Mr. Shevardnadze should be given is that this Senate is in favor of a responsible approach to arms control, one which advances the security of the United States and its allies and friends, one which reduces the risks of war. That is what the amendment that was offered by the Senator from Georgia [Mr. NUNN], and I, and which was adopted last night by a vote of 92 to 1, means. That is its signal.

Signal No. 3: The Senate takes the treaty obligations of the United States seriously. It does not look lightly on decisions which could affect the obligations of the United States under international law and, more to the point, which are part of the law of the land of the United States. This signal has relevance for any treaties currently under negotiation, any future ratification debate in the Senate. In that sense, Mr. President, we are sending a positive signal about the Senate and about the United States. It is a signal which should help the arms control process move forward.

There will be further debate about arms control in this bill and it could go on for days. Some of the issues are controversial in the Senate, but Mr. Shevardnadze and the Soviets should understand that this Senate takes its arms control responsibilities seriously, that these issues are debated fully and openly, and that the United States Senate is an equal branch of our Government and has an equal role in the making of our international treaties. By "equal role," I mean that it gives its advice and its consent to the making of treaties. And when it comes to the approval of the ratification of treaties, while the Senate does not ratify treaties, as we often hear, the Senate must give its approval to the resolution of ratification of treaties before ratification can occur, and that requires a two-third vote.

Mr. President, as I indicated on last evening, at 9 o'clock this morning I shall suggest the absence of quorum and it will be a live quorum.

Does the Chair have any message which it wishes to lay before the Senate or any statement?

I yield the floor.

BICENTENNIAL MINUTE

SEPTEMBER 16, 1859: SENATOR BRODERICK KILLED IN DUEL

Mr. DOLE. Mr. President, 128 years ago today, on September 16, 1859, a Senator died in California. What made this death remarkable was the fact that the Senator, David Broderick, had been shot 3 days earlier in a duel with David Terry, the former chief justice of the California Supreme Court. A number of early 19th century Senators, including Andrew Jackson, Henry Clay, and Thomas Hart Benton, had attempted to settle personal grievances on the dueling ground, and some had actually killed their opponents, but no sitting Senator, before or after Broderick, would himself meet so barbaric an end.

Broderick, a tough, self-made Democrat, had migrated to California in 1848. Also moving to California that year was Congressman William Gwin of Mississippi, a patrician lawyer and physician. Both men quickly became embroiled in the turbulent politics of the region: Gwin, a slave owner, leading the "chivalry" or pro-slavery wing of the California Democrats, while Broderick's faction vigorously opposed the extension of slavery in California. When California became a State in 1850, the legislature sent the two enemies to the Senate, where they constantly traded insults on the floor.

Back in California in the summer of 1859 to campaign for local candidates, Broderick loudly announced in a hotel dining room that one of Gwin's closest allies, Chief Justice Terry, was corrupt and unfit for office. Terry immediately resigned from the bench and challenged Broderick to a duel. Their first attempt on September 12, was interrupted by the police, but the next morning at sunrise the two men faced each other on a secluded beach beside the Pacific. At the command to fire, Broderick prematurely touched the hair trigger, firing his bullet into the sand at Terry's feet. Terry coolly aimed, fired, and shot Broderick in the chest. Broderick lingered in great pain for 3 days until he died on September 16.

CONCLUSION OF MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Morning business is now closed.

NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEARS 1988 AND 1989

The ACTING PRESIDENT pro tempore. Under the previous order the hour of 9 o'clock having arrived the Senate will now resume consideration of unfinished business which is S. 1174. The clerk will report the pending business.

The legislative clerk read as follows:

The bill (S. 1174) to authorize appropriations for fiscal years 1988 and 1989 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal years for the Armed Forces, and for other purposes.

The Senate resumed consideration of the bill.

CALL OF THE ROLL

Mr. BYRD. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The legislative clerk called the roll, and the following Senators entered the Chamber and answered to their names:

[Quorum No. 21]

Byrd	Hecht	Kennedy
Dole	Johnston	Reid

The ACTING PRESIDENT pro tempore. A quorum is not present. The

clerk will call the names of the absent Senators.

The legislative clerk resumed the call of the roll.

Mr. BYRD. Mr. President, I move that the Sergeant at Arms be instructed to request the attendance of absent Senators and I ask for the yeas and nays.

The ACTING PRESIDENT pro tempore. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The ACTING PRESIDENT pro tempore. The question is on agreeing to the motion of the Senator from West Virginia. The yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Connecticut [Mr. DODD], the Senator from Tennessee [Mr. GORE], the Senator from Michigan [Mr. LEVIN], and the Senator from Rhode Island [Mr. PELL], are necessarily absent.

I also announce that the Senator from New Jersey [Mr. LAUTENBERG] is absent because of death in family.

Mr. SIMPSON. I announce that the Senator from Alaska [Mr. STEVENS] and the Senator from Connecticut [Mr. WEICKER] are necessarily absent.

The PRESIDING OFFICER (Mr. DIXON). Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 83, nays 10, as follows:

[Rollcall Vote No. 246 Leg.]

YEAS—83

Adams	Garn	Mitchell
Baucus	Glenn	Moynihan
Bentsen	Graham	Murkowski
Biden	Gramm	Nickles
Bingaman	Grassley	Nunn
Boren	Harkin	Pressler
Bradley	Hatfield	Proxmire
Breaux	Hecht	Pryor
Bumpers	Heflin	Reid
Burdick	Heinz	Riegle
Byrd	Helms	Rockefeller
Chafee	Hollings	Roth
Chiles	Humphrey	Rudman
Cochran	Inouye	Sanford
Cohen	Johnston	Sarbanes
Conrad	Karnes	Sasser
Cranston	Kassebaum	Shelby
D'Amato	Kennedy	Simon
Danforth	Kerry	Simpson
Daschle	Leahy	Specter
DeConcini	Lugar	Stafford
Dixon	Matsunaga	Stennis
Dole	McCain	Symms
Domenici	McClure	Thurmond
Durenberger	McConnell	Trible
Exon	Melcher	Warner
Ford	Metzenbaum	Wirth
Fowler	Mikulski	

NAYS—10

Armstrong	Hatch	Wallop
Bond	Kasten	Wilson
Boschwitz	Packwood	
Evans	Quayle	

NOT VOTING—7

Dodd	Levin	Weicker
Gore	Pell	
Lautenberg	Stevens	

So the motion was agreed to.

The PRESIDING OFFICER. With the addition of Senators voting who did not answer the quorum call, a quorum is now present.

AMENDMENT NO. 682

The PRESIDING OFFICER. Under the previous order, the Glenn amendment is temporarily set aside, and the Senator from Virginia, Mr. WARNER, is recognized to offer an amendment to strike the Nunn-Levin language from the DOD authorization bill.

The Chair recognizes the Senator from Virginia, Senator WARNER.

Mr. WARNER. Mr. President, I send to the desk an amendment and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Virginia (Mr. WARNER) proposes an amendment numbered 682.

On page 23, strike out line 7 through page 24, line 19.

Mr. WARNER. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. Mr. President, first I would like to express my appreciation to the distinguished majority leader and the distinguished minority leader, and my good friend, the chairman of the Senate Armed Services Committee. During the deliberations last night, under the guidance of two strong leaders here in the U.S. Senate, we worked our way through an impasse. I think we have reached a point now where the bill can move forward. I wish to express my appreciation to the leadership for making that possible.

Mr. BYRD. Mr. President, will the distinguished Senator yield?

Mr. WARNER. Yes.

Mr. BYRD. I want to make that a two-way street. I express my appreciation to the chairman and the ranking member for the work, the hard work, the good work, the excellent work, that they have done in the committee in developing this legislation and in the leadership that they are giving to all of us on the floor with respect to this bill.

I particularly want to salute the distinguished Senator from Virginia for his unfailing courtesy, patience, and cooperation. He never ceases to give all his devotion.

Mr. WARNER. Mr. President, I thank the distinguished majority leader. I also thank my distinguished minority leader, who worked right with us through the late hours of the evening.

I felt, Mr. President, that the debate yesterday was a very constructive debate. While we may have had different perspectives later on in the day as to the course of that debate, unquestionably the earlier hours of the day, I think, contributed greatly to the knowledge of the Members of this body and others who have followed the debate.

Mr. President, we are now at the focal point. With this amendment, we move to take out of the bill that portion which regrettably led all but one Republican, with great reluctance, to vote against the committee action on this bill coming to the floor.

This Chamber has heard, and will continue to hear, the reasons for that action being taken. It is now my opportunity this morning to come directly to the point of my personal concerns, and I think, concerns shared by many others with regard to this amendment.

The debate on the Levin-Nunn provision has been unprecedented in the annals of the annual defense authorization bill. The provision was the only reason why eight of nine Republican members of the committee voted against favorably reporting out an otherwise remarkably balanced defense bill. The provision has been at the center of Republican opposition to taking up consideration of the defense authorization bill on the floor.

Finally, the President has stated publicly his strong opposition to this amendment and has stated—I think with reluctance but nevertheless unequivocally—his intention to veto any bill containing this provision as now drawn.

The Levin-Nunn provision would prohibit the expenditure of funds for development and testing related to the Strategic Defense Initiative [SDI]. It would require a joint resolution of the House and Senate before the President could proceed with any development or testing of SDI systems which could not be conducted under the so-called narrow interpretation of the ABM Treaty.

Last night, the Senate adopted the Byrd-Nunn amendment whereby the Senate "cautions that neither the Congress nor the President would take actions which are unilateral concessions to the Soviet Union." Mr. President, the Levin-Nunn in my judgment, would have the effect of requiring by statute that the President follow the more restrictive of two plausible interpretations of the ABM Treaty, at the particular time when the Soviet Union is seeking an even more restrictive interpretation at the negotiating table.

The Soviets have publicly stated that they recognize neither the narrow interpretation that has been discussed here nor the broad interpretation, but that they have a third interpretation unlike either being considered here in the United States Senate.

The Levin-Nunn provision would have the effect of binding the United States to an interpretation under the ABM Treaty to which the Soviet Union is not bound. Mr. President, the effect of the Levin-Nunn provision seems to this Senator to take the very course of imposing unilateral restrictions that over 90 Senators cautioned against last night—the very words in the Byrd-Nunn amendment.

Embedded in the Levin-Nunn provision are a number of issues, all of which have been addressed during the course of over 4 months of floor debate and floor speeches. There are the legal issues having to do with the interpretation of the ABM Treaty with respect to so-called future systems. Senators on both sides have spent countless hours studying the records that have been available to the Senate and have reported their findings.

The administration, at the direction of the President, has undertaken to study the negotiating record, the ratification record, and the record of subsequent practice, and made these studies available to Senators.

The administration studies of the treaty and the negotiating record concluded that the treaty is ambiguous, and that the negotiating record establishes that the Soviet Union refused to agree to prohibit the development and testing of mobile ABM devices based on other physical principles.

Administration studies of the ratification record concluded that no change occurred in the international obligations undertaken in the treaty through any condition, reservation, or understanding, nor did they find any basis in the Senate record to conclude that the Senate's consent to ratification was premised on a generally held intention that the treaty prohibited development and testing of mobile ABM devices based on other physical principles. The study found in the Senate record, however, representations by executive officers that support the restrictive interpretation upon which Senators could justifiably have relied in granting advice and consent.

The administration study of subsequent practice details the conduct, bilateral agreements, exchanges, and public statements of both the United States and the Soviet Union between 1972 and 1985 relating to future ABM systems. The study concluded that the record of subsequent practice fails to establish a domestic or international legal obligation binding the United States to the restrictive interpretation.

Mr. President, the Levin-Nunn provision also has embedded within it questions related to the conduct of the SDI Research Program and questions related to the most effective use of critical defense dollars. The Congress in last year's defense authorization bill requested an assessment of the impact of the broad interpretation of the ABM Treaty on the SDI Program. In addition to the program related issues, which would allow the program to proceed more quickly, more confidently and with less cost, this study noted that the broad interpretation would permit us to delay a decision on fundamentally altering the ABM Treaty regime by several years until we had confidence that the technologies which we had developed would meet the criteria for deployment. Under the restrictive interpretation, the United States would be forced to make a decision to alter the treaty regime simply to complete the testing portion of the research program.

Mr. President, I note these studies, both by way of underscoring the depth and breadth of the issues that underlie our opposition to the Levin-Nunn provision and to make the point that the President has been, and remains committed to continuing consultations with the Congress and our allies before reaching any decision to restructure the SDI program in accordance with the broad interpretation. Let me make it clear. The President has not made any decision with respect to restructuring the SDI Testing Program. And, might I add, the Pentagon, in its recent review of the readiness of portions of the SDI Program to proceed to the demonstration/validation phase of the acquisition process, has considered a program plan that is consistent with the restrictive interpretation of the treaty.

Mr. President, the legal and program arguments against the Levin-Nunn provision have been and will be detailed by other Senators who share my opposition to their position. Other Senators have spoken on the constitutional questions raised by the provision. Let me conclude my remarks here by underscoring the principal reason for my opposition, and that is its impact on negotiations.

I believe that there is little argument that the SDI Program brought the Soviets back to the negotiating table, and this Senator believes that by hanging tough on the SDI Program, the President has been able to bring the negotiations to the point today where we are very close to an agreement on INF, and there is a more favorable prospect than ever before on reaching agreement on strategic nuclear weapons in START.

We have been told by our negotiators that the Soviets have been insisting on an even more restrictive interpretation than the ABM Treaty as one of their conditions in the course of these negotiations and that the so-called narrow interpretation, to which the Levin-Nunn provisions would bind this program, is not indeed their objective. In the judgment of this Senator, the leverage needed by our negotiators to achieve agreements that are in our national security interest are gravely undermined when the President is effectively forced by statute to follow the more restrictive of two plausible interpretations of the ABM Treaty, The Congress would effectively be establishing a new starting point for the negotiations, and one decidedly in the favor of the Soviet Union.

I therefore urge my colleagues to consider the caution against imposing unilateral constraints on the United States, particularly at this critical time. Last night we overwhelmingly supported that objective by voting for the majority leader's amendment.

Mr. President, the Levin-Nunn provision represents a unilateral constraint on the United States and grants a substantial concession to the Soviets at a critical juncture in the arms control negotiations in Geneva.

Mr. President, later today, I will take up another aspect of this treaty.

If I may have the attention of the distinguished chairman of our committee, I have stated that later today I would like to engage in a colloquy on another aspect of the amendment that troubles me a great deal.

That is the concept of having a joint resolution which would allow the House of Representatives by the presence of a simple majority on the floor of the House to cast a vote which could override the judgment of all 100 Senators who presumably would have at one time or another expressed their views on the floor and quite possibly have cast a vote on this issue. We would be giving to the House, which does not have the constitutional responsibility that the Senate has in the area of treaties, a veto over the judgment of the Senate, and that issue, I say most respectfully to my distinguished colleague, is a troublesome one for this Senator.

Mr. NUNN. I might say to my friend from Virginia in response to that I think it is a legitimate area of inquiry. The Constitution of the United States says that when a treaty is ratified it becomes the law of the land. It is just written as clear as a bell. There is no ambiguity about that. So this treaty is the law of the land.

We can debate what the treaty says, but we know it has been ratified and we know what the Constitution says, and we know that it is the law of the land.

The President said yesterday that laws have to be changed or made by legislatures. The Constitution also sets up a House and a Senate.

Many times we in this body would prefer we have only one body and there are, amazing to me, the ones who feel most strongly in that direction are those who have come here from the House. They seem to believe that many times the House is not on

the same course as the Senate and we would be better off with only one body. I get frustrated, too. I know we have problems in conference. Everything we do in regard to weapons, everything we do in regard to laws, requires both the House and the Senate. That is the way our system works.

I would be absolutely adamantly opposed to any infringement on the Senate's constitutional duty to advise and consent. The House does not have that. The Senator is right. There is a unique role for the Senate in treaties. The question is this is not just a treaty now. It is also the law of the land.

So the Senator's concern I understand, but I do not know of any answer to that that is constitutional.

Mr. WARNER. Mr. President, let me suggest to my good friend to pause a moment and reflect on the statement he just made. If I could paraphrase it, a treaty is the law of the land. In my judgment it is in a separate category, and I will address that later, but the Senator from Georgia said everything we do in connection with the law takes the action of the House and the Senate. Was that basically what the Senator said?

Mr. NUNN. In creating law.

Mr. WARNER. In creating law.

But let us pause for a moment to think how a treaty becomes law. A President negotiates that treaty. That is his sole province.

Mr. NUNN. With the advice of people like my friend from Virginia, who are exercising daily their right under the Constitution to advise and consent.

Mr. WARNER. But we are careful, the two of us being in that group traveling periodically to Geneva to meet with the negotiators, to meet with them here, not to try and dictate any of the instructions or the terms and conditions.

But if I may just continue my train of thought and come back to that.

Mr. NUNN. I would like to come back to that and I will.

Mr. WARNER. But pause with me. The President negotiates that treaty. Then it is sent to this body and this body alone under the advise and consent clause, and it is the action of this body which then enables the treaty to become law.

In my judgment that procedure sets the category of treaties apart in the generic term of the law of the land.

I thank the Senator.

Mr. NUNN. May I respond to my friend from Virginia? Let us assume something here. Let us just hypothetically assume we have the right to under the ABM Treaty—I do not think there is any dispute on this—to deploy, I believe it is 100 fixed land-based ABM interceptors. The Soviets have that right also.

Now, that is in the treaty and that has been passed.

Let us assume the President decides that he is going to ask the Congress or the Senate under the treaty for the right to deploy those 100 interceptors. He is going to ask for funding. Would the Senator from Virginia believe that only the Senate should approve the funding for that?

Mr. WARNER. Mr. President, quite logically the purse strings of the United States are controlled by both Houses.

Mr. NUNN. The Senator is exactly right. This amendment is a control of the purse string. This amendment is not a writing into law of the ABM interpretation.

The Senator from Virginia acknowledged that when we first started the debate way back in May. If we wanted to draft a piece of legislation that said what the narrow interpretation was and said that was the law and we are going to put it into law, we could have done that. We did do that. What we did do is we made it plain that these tests that the administration has come forward and asked for the funding on, $5.5 billion, $5.7 billion, and we put $4.5 billion in this bill, these tests have been laid out by the administration in their own words as in keeping with the traditional interpretation of the treaty.

Jim Abrahamson testified to that before the Appropriations Committee and the Armed Services Committee.

As I said to my friend from Virginia, the only thing we are saying is if the administration departs from what they said they were going to use this money for, they have to come back and as they would on any other weapon or any other tests where we are concerned about it and get approval of the Congress.

So it is a purse-string issue. That is what we are talking about. We are not trying here to write into the law what the treaty means. We are saying if the administration deviates from the testing program that they have set up which is in keeping with the traditional interpretation as interpreted by the Nixon administration, Ford administration, Reagan administration, and Carter administration, that they have to come back to the Congress for that funding. In other words, we are not giving them a blank check. That is the reason that I have agreed over and over and still would agree to take the $4.5 billion in this provision and remove them from the bill and go forward with everything else and sit on this SDI money until we can come to agreement with the administration about how it is going to be used.

So it is a matter of purse strings, and the House of Representatives is not only involved in purse strings, the House of Representatives originates all the appropriations bills. That is to me the answer to the Senator's concern. I think it is a concern and let me come back just briefly——

(Mr. PROXMIRE assumed the chair.)

Mr. WARNER. Mr. President, if I might interrupt my distinguished colleague, I had allocated to other Senators time to also address this question. We will have the privilege, the two of us, of being on the floor for some extensive period.

I would only point out, and will pursue this later, the language the Senator rather skillfully quotes in the provision itself is the very language from the ABM Treaty, and that says the limitations shall cease and then the Senator places the conditions. He has incorporated the language of the treaty into this provision and that was the stroke, intentionally or unintentionally, when he in my judgment let the House have a one-House veto over the action of the Senate.

Mr. NUNN. May I say to my friend from Virginia that the language of the treaty was very precise in what was limited and I think the language is clear as to what was limited. Otherwise, the Senator from Virginia would not be concerned about it.

That raises the question, if the language is so clear, why is the big debate between the broad and the narrow?

Mr. WARNER. Mr. President, we shall develop this in the course of the day.

Mr. NUNN. If I could just pursue with my friend from Virginia, this is the exact language of the treaty and this is what the opposition side says is to be interpreted broadly.

If that is the case, why are you concerned about it being written into the bill?

Mr. WARNER. I do not want to see written into the statute any implicit interpretation of a treaty and allow the House of Representatives to make that interpretation.

Mr. NUNN. I say to my friend that is not an interpretation. That is the exact language.

Mr. WARNER. Mr. President, we will deal with that as the day unfolds.

The PRESIDING OFFICER. Who seeks recognition?

Mr. WILSON addressed the Chair.

The PRESIDING OFFICER. The Senator from California is recognized.

Mr. WILSON. Thank you, Mr. President.

Mr. President, later today there will be a ceremony on the west steps in which the President and Members of Congress participate in a ceremony celebrating the bicentennial of our Constitution. And yet last night, Mr. President, the Members of this body celebrated it in a very strange fashion. You might say, to quote from Hamlet, they honored it in the breach.

Interestingly enough, earlier that day, yesterday, some of those who

voted last night to place themselves above the Constitution had participated in the hearings of Judge Bork where they were quite critical of his conduct, finding it to be in conflict with their interpretation of the Constitution.

Let me be specific and come directly to the point, Mr. President, because last night we had two votes, one on the so-called Dole-Warner amendment, which put forth a very simple proposition that the Senate of the United States should refrain from intruding upon the prerogative, in fact, the exclusive responsibility assigned by the Constitution to the President for the negotiation of treaties.

It ignored the language which I think is virtually irresistible that, "The Congress must not act to further the interests of the Sovet Union by unilaterally adopting the Soviet negotiating positions"—I underscore "negotiating"—"that have been rejected by the United States Government."

Then Mr. President, what they did pass, which passed with a single dissenting vote, was an amendment offered by the distinguished majority leader and the chairman of the Armed Services Committee which said, in language that did not quite address the point, that the Congress and that the Senate "endorses the principle of mutuality and reciprocity in our arms control negotiations with the Soviet Union and cautions that neither the Congress nor the President should take actions which are unilateral concessions to the Soviet Union."

Mr. President, having just voted last night for an amendment that cautions the Senate not to take actions which are unilateral concessions to the Soviet Union, we have this morning before us a motion to strike precisely such a concession.

And let no one be in any doubt as to the actual character of the Levin-Nunn amendment. It represents a unilateral concession to the Soviet negotiating position which has been rejected by the U.S. Government, specifically by our Geneva negotiators who for a very long time have been engaged in talks not just on intermediate range missiles, not just on strategic weaponry, but also on space. And let no one be in any doubt that this intrusion by the Levin-Nunn amendment would have a very dramatic impact upon those negotiations.

Now what the Levin-Nunn amendment does, simply stated, is to condition all future funding of the strategic defense initiative upon the administration's acceptance of the narrow interpretation of the Antiballistic Missile Treaty. Or, to put it in layman's language, we cannot spend further to implement the goals of the strategic defense initiative unless we agree that the money is going to be spent only for research and not for the development and testing of the kind of defenses against a missile attack that the whole ABM concept is designed to achieve. We are constrained to research. We cannot go forward with certain development and testing.

That is a strange constraint. It is one that is consistent only with the idea that we are safe only if we guarantee our vulnerability. The doctrine of mutually assured destruction is a doctrine of mutual vulnerability. However, is it indeed mutual? Have the Soviets thought so?

Contrary to what my friend from Georgia would have us believe, there is no clear and consistent understanding of what this ABM Treaty has meant, either on our side of the Atlantic or on the other side of the Urals. And in fact, the Soviet interpretation has changed. Why is it, Mr. President, that as late as 1985, the Soviet Union put forward a proposal that would in fact give rise to the very suspicion that, until that moment, they believed in a broad interpretation. In March 1985, the Soviets in Geneva proposed to prohibit all testing, development, and deployment of space-based ABM systems. Now, why would they do that if in fact it was everyone's understanding that such a prohibition was already in effect?

Very clearly, the only logical answer to that question is that until that moment, they did not feel a need, but they felt a need to make it clear that there had to be such a prohibition. That bespeaks very plainly on their part in the broad interpretation, the broad interpretation meaning one that would permit the development and testing of so-called, future or exotic antiballistic missile systems.

I said, "Let no one be in doubt as to the impact of the Levin-Nunn amendment on negotiations in Geneva." Let me explain that.

We have had, as I say, negotiators trying to achieve a breakthrough with respect to strategic weapons. We are all hopeful that later this fall there may be the announcement of an agreement as to a wise and workable agreement that will reduce for the first time offensive weapons of an intermediate range. But, candidly, what would be far more important would be an announcement that we were able to achieve a wise and workable agreement that would reduce strategic weapons. But is that likely? It is unlikely, Mr. President, for the very reason that the Soviet negotiating strategy—and there is no secret to anyone who reads the newspapers—has been to establish a linkage between progress in reducing strategic arms and progress, as they term it, in constraining the U.S. SDI program.

Now, this, of course, is hardly mutuality and reciprocity of the kind envisioned by the Byrd-Nunn amendment last night because the Soviets themselves have, for many years, been engaged in precisely the kind of research that they would have us abandon altogether. But, Mr. President, if one is in any doubt that this, as a practical matter, is having an impact upon those negotiations, then we should listen to the words of our negotiators in Geneva.

Two afternoons ago, before the Senate Armed Services Committee, we had those negotiators present. In response to my question to them as to what the passage of the Levin-Nunn amendment would bring to their negotiating posture, Ambassador Paul Nitze stated that the passage of the amendment would be, to quote him, "most unhelpful."

Ambassador Henry Cooper spelled it out a little more clearly. He said it would necessarily narrow the range of our negotiations so that the spectrum would span from a restrictive interpretation of the treaty to an outrageously restrictive interpretation.

What he is saying is that we are moving, by this unilateral concession, ever nearer to the Soviet position and, in fact, moving so near to the Soviet position that we would so constrain our own strategic defense initiative policy that according to a study requested in the 1987 defense authorization bill we would engender a cost to that program of several years' delay, at least 3 years' delay, and $3 billion in the costs of the program.

Why do we do this to ourselves? Mr. President, there is no good answer. The only answer that makes any sense is that we must continue to make ourselves vulnerable.

You know, it is an extraordinary thing—I do not know if your experience has been what mine has been—going into town meetings or meetings with service clubs, intelligent audiences who read, who try to keep informed. It is a very interesting thing that when you ask the question of that kind of an audience, "How many of you think that we have an adequate system of antiballistic missile defense here in the United States?" You will get maybe half the room raising their hands.

I no longer ask the question because I no longer wish to embarrass the audiences because the answer is, and the audiences are shocked by the answer, we have no defense against ballistic missiles; none.

Mr. President, that is a perilous situation. I hope that we will see a time in the near future when in fact we do reduce the missile inventory, of both superpowers, to a point where we can safely assume that we will not be compelled to continue relying exclusively upon a very precarious balance of nuclear terror, when, in fact, we can have reasonable assurance that there will be no Soviet first strike because such a

first strike would be utterly irrational, not just under the theory of the deterrence that underlies the doctrine of assured destruction but rather because we will have added to that very significantly a defense against preemption.

Mr. President, that is not an impossible dream. A first generation system, we are advised by very competent scientific and engineering authority, is a possibility, even a probability, if it is adequately funded and given sufficient resources before the turn of the century. That, coupled with an offensive deterrent, would give us an assurance that we do not now have. Not now—not now, Mr. President, in a nation that has no defenses against ballistic missile attack.

What Ambassador Nitze and Ambassador Cooper were telling us is that we are undercutting their position by the passage of the Levin-Nunn amendment. It is not simply a fencing, as we have so often engaged in as we attach conditions to the production of a particular weapons system. This amendment contains language, it quotes the treaty, but it does not quote all of the treaty; it is selective in that regard and it ignores the fact that the negotiating history and the record of negotiations of the ABM Treaty makes clear that the Soviet position with respect to so-called futuristic ABM systems, those based on "other physical principles" would be governed by the provisions of Agreed Statement D, which is to say that before they could be deployed there would have to be discussion and, presumably, some agreement between the superpowers. But no constraint is placed by Agreed Statement D upon the development and testing of such futuristic systems based on "other physical principles."

So, Mr. President, what we could do by the enactment of the Levin-Nunn amendment, if it were actually to become a domestic law of the United States, is that we would bind ourselves—and understand that this is no sense-of-the-Senate resolution, this is binding upon the United States—we would bind the American people to an interpretation of the ABM Treaty and so constrict our own progress on achieving those defenses that we do not now have that the likelihood is that we would never attain them. And that, perhaps, is, after all, the goal of this provision.

Indeed, some will concede that it is the goal of putting this kind of roadblock in the path of achieving a strategic defense initiative to safeguard the United States from nuclear missile attack.

It is a strange view in my judgment that our safety depends upon our giving absolute guarantees to the Soviet Union of our vulnerability.

Mr. President, this is not something that we can simply dismiss as business as usual because this is a landmark decision. It is the first time that we have actively intruded upon the negotiating process. It very well may be the first time that we have sought to interpret, after the facts, a treaty usurping the responsibility of the President of the United States and competent constitutional authority gives that responsibility to the President, not to the Congress, not to the Senate.

Yes, the Senate has a role. Clearly, we have a role in treaty making. But it is not negotiation. It is ratification and the two are not to be confused.

Yes, clearly, the Senate and for that matter the House of Representatives, which does not have that ratification responsibility of the Senate—both Houses have the responsibility to enact defense authorization statutes and, in so doing, they may condition spending upon a weapons system or even, as in this case, a defensive system. But what this amendment does, Mr. President, that is so different is that it quite clearly, quite expressly, conditions further funding of a particular system upon acceptance of an interpretation of a treaty. It is not the responsibility of Congress nor does Congress have the authority to impose that interpretation upon the administration. That is the difference. This is not like conditioning funding for the MX on the agreement between the administration and the Congress of an acceptable basing mode.

That was and remains a decision about what is the best mechanical means of basing a weapons system. It did not depend upon a treaty. It did not interpret a treaty. It did not reinterpret a treaty. It had nothing to do with the treaty. And neither had any of the other constitutional fencings engaged in by Congress. This is a departure. It would set a dangerous precedent.

But most dangerously, it would impact present negotiations in Geneva. Indeed, it might well be said that if we enact the Levin-Nunn amendment the conference between the House and the Senate might just as well occur in Geneva. We might as well tell the negotiators for both the Soviet Union and the United States to sit and watch while we decided what constraints we will impose upon the United States.

Is this not precisely, Mr. President, what 92 Senators last night cautioned against, against taking the kind of action that amounts to unilateral concessions to the Soviet Union? How far toward their negotiating position should we go? Negotiation, in my understanding of the word, and I have had some experience, involves people sitting across the table from one another and making concessions to gain concessions. It does not exist, Mr. President, when one side begins the negotiation by saying, "Well, this was our position, but here we will go 90 percent of the way toward yours. Now we will negotiate the balance of the 10 percent that remains on the table."

That is what Ambassador Cooper meant when he said enactment of the Levin-Nunn amendment would necessarily narrow the range of negotiation. Narrow it? It would almost close the window so it is barely open a crack. It would not be sufficient that anyone could expect that through it could come any kind of reasonable or meaningful defense initiative, at least not within a timeframe within which it might be necessary.

For those who might be so concerned about achieving a breakthrough on arms control, do they really think that the Soviets have returned to the bargaining table for any reason other than the fact that we were firm in making good our promise that if they did not accept the zero option, we would in fact put missiles, reluctantly, on European soil to match the SS-20's that threaten our NATO allies? Or that they have come back to the table because suddenly, in March 1983, the President of the United States indicated a new resolve to pursue ballistic missile defenses just as the Soviets themselves have been pursuing them for decades, spending more on defense than on offense.

Mr. President, for those interested in arms control, let me put it as simply as possible. This is the greatest lever we have ever had or ever will have within the foreseeable future. If we are interested in the reduction of offensive inventories, if we are interested in reducing ballistic missiles that threaten the United States, it will be because we have enormous leverage with the Soviets perception that the United States has the ability and the resolve to achieve a system of antiballistic missile defenses.

Are we to give that away? Are we to give away the leverage that has brought about a return to the negotiating table of the same Soviets who stalked off vowing not to return, who have now returned, having dropped all their preconditions? Are we to now make this incredible unilateral concession to the Soviet Union?

I would not want that on my conscience.

Mr. President, I will confess that, to an extent, we may have all been engaged in an academic exercise here because it is no secret that the President of the United States has made clear that should a defense authorization bill reach his desk with the Levin-Nunn amendment in it, let no one be in any doubt, he will veto it. Let no one be in any doubt that he will be sustained in that veto because there is a letter which I have circulated and on it are 36 signatures of Senators who have pledged to sustain him on that veto.

For those who may not be familiar with this Levin-Nunn amendment and may not understand the passion that it kindles, let me just recite a little recent history.

The rest of this bill, the defense authorization bill, even though it might undergo substantial amendment because it embraces a complex of highly complicated subjects, is essentially a good bill. It would have passed out of the Senate Armed Services Committee with a virtually unanimous, bipartisan vote, as have defense authorization bills every year in the time that I have been in the Senate.

But this year, for the first time, we had that kind of bipartisan agreement right up to the last moment and then at the last moment there was added to this legislation the Levin-Nunn amendment and that immediately transformed that bipartisan support for this bill into an almost straight party line division.

The Republicans, who for years have, been accused by our brothers on the other side of the aisle as being almost jingoistic in our passion for a strong defense, were the ones who voted against this measure. My Democratic colleagues, many of whom have confessed to me some sensitivity about how their party is being perceived on defense, were the ones who sent this bill to the floor with this amendment in it.

What is more important, Mr. President, is that the reason for this division is the seriousness with which we must regard the Levin-Nunn amendment. It is quite different from anything that we have seen before, except, Mr. President, for the same kind of nonsense that was present in the House Armed Services version of the 1987 defense authorization bill.

There was a similar provision that related to a demand, a mandate, that the administration accept the numeric sublimits of the SALT II Treaty, unratified though it may be by the U.S. Senate, and, therefore, not binding upon the United States.

The House Armed Services Committee took it upon themselves to demand that the President of the United States accept the SALT II Treaty. That created a very similar impasse. When we went to conference, the Senate refused to accept that outrageous provision in the House bill, and the conference very nearly foundered on that point. We almost had no defense authorization bill last year.

Mr. President, it is a shame that we did not have it out right then and there. But, instead, the Members of the House finally decided that they had better withdraw that amendment because they did not wish to be accused of undermining the President of the United States on the eve of his meeting with General Secretary Gorbachev in Reykjavik. They did not wish to be perceived as being those who had undercut the ground from the President of the United States in what might be a crucial arms control negotiation.

Well, however belated, that was a responsible view, and the same responsible view would impel reasonable and responsible Members of the Senate on this day to recognize in this the same mischief—and to call it mischief is to understate it—the same peril, Mr. President, that was present except that this is so far more dangerous because what we are talking about is a defensive system so far more important to the United States that it almost defies comparison.

Why is it that those who finally came to their senses and understood that they should not undermine the American President on his way to arms control negotiations with the Soviet Union a year ago now are perfectly willing to undermine the same President of the United States dealing through his delegated negotiators in Geneva when they are engaged in crucial arms control negotiations with the Soviet Union? Why is that? There is no consistency there. There is no explanation.

Mr. President, it does not make sense, but it is not simply a foible of the Congress like so many others that the public can afford to ignore, to shrug off. It is a perilous, tragic error. It is, in the words of the Byrd-Nunn amendment of last night, the kind of unilateral concession to the Soviet Union against which we all voted last night.

Now, Mr. President, if the Members of the Senate are willing to usurp the function of the President, which the Constitution assigns exclusively to him, the responsibility for the negotiation of treaties, then perhaps they are willing to arrogate to themselves further power, and that is the control of those negotiations. We are not all going to crowd into the room with the Soviet negotiators, but instead we will simply set the parameters for what the discussion will be. We will narrow the range, as Ambassador Cooper has put it, and that will effectively control what occurs.

There are any number of arguments that could be made in favor of this motion to strike. The ranking member of the Foreign Relations Committee has protested the presence of this amendment on the defense authorization bill, saying that if it should appear anywhere it should be on a Foreign Relations Committee bill. He is right. This committee really has no jurisdiction over matters dealing with treaties, and that fact cannot be disguised or papered over by saying this is a customary fencing arrangement in which the Armed Services customarily engage. That is not true. This is expressly a conditioning of further spending for the defenses of the United States upon the acceptance of a particular interpretation of a treaty, a treaty which constitutionally says the President of the United States shall interpret. But evidently, this body, which later this morning is going to celebrate the bicentennial of our Constitution, does not have time for such nice distinctions.

I will tell you what we did last night, Mr. President. We put ourselves above the Constitution. We said to those who were wise enough, so that we are celebrating their wisdom 200 years later, to craft a Constitution based upon a separation of powers, we have decided that in our wisdom we can ignore that long tradition, that wise and honored tradition of the separation of powers and we will arrogate to the Senate of the United States and even to the House, and in fact to a majority of those present and voting in the House, the responsibility which the Constitution gives to the President of the United States and not to the Senate, not to the House, nor to both Houses combined.

If that does not persuade people, Mr. President, then I do not suppose the idea that this will cost several years and several billion dollars in delay and added costs on a strategic defense initiative program will matter much to them either. Perhaps it should not. Because what they will do by adding this constraint and making this unilateral concession is to so constrain the program that it cannot achieve what technologically it is capable of achieving, which is to say the safeguarding of the United States from ballistic missile attack, from attack by those missiles that can leave the Soviet Union and once launched be beyond man's ability to recover and land 26 minutes later in the United States, touching off what we all have feared, the horror of nuclear holocaust.

Mr. President, this is so much more than mischief that really it is difficult to find words adequate to describe how ill-advised, how arrogant, how unwise it will be if we are in fact guilty of enacting the Levin-Nunn amendment. There will be people who follow me on the floor who will tell you, "Well, listen, it could be a lot worse. It could be as arrogant as the House version." Yes, it could. It will not make a great deal of difference. Style is not the issue here. Substance is the issue. And observance of the Constitution of the United States.

There are probably many who are listening who think, "Oh, come on. All of this talk about the Constitution, what does it really mean."

Well, what it really means, very simply Mr. President, even to those who might take the Constitution lightly, not be very much concerned with things like separation of powers, is

that by putting ourselves in the business of being the negotiators, or at least by setting the parameters for negotiation, we have not only arrogated to ourselves the power that the Constitution assigns to the executive, but substantively we will have so constrained the Strategic Defense Initiative Program that it will never be able to produce the set of defenses, even a first generation system of defenses, that hold infinite promise for safeguarding our children and their children. That system in combination with some offensive deterrent, even one as minimal as we presently possess, offers real promise that there will never be a Soviet first strike, and therefore never be a nuclear holocaust, never be the kind of mutually suicidal nuclear exchange about which so many books and articles and movies have been produced.

(Mr. ADAMS assumed the chair.)

Mr. WILSON. Mr. President, it is not often that the men and women of this Senate, who are I think uniformly of good will, are so moved that they will undertake the kind of action that the members of the Senate Armed Services Committee did when they converted what was bipartisan support for an otherwise good bill into a virtually straight party line division. Not quite party line. There was one Republican vote. There is a reason for that departure from history. It is because of the seriousness of this matter, and it is for that reason the President has said he will veto this legislation, as important as the defense authorization bill is. We will hear much—we have heard much already, yesterday and last night—about the need for the ships and planes and tanks, and about the need for the pay raise.

Well, no one on this side of the aisle quarrels with that. To the contrary, I think that we have been at least as assertive as our brethren on the other side of the aisle. Certainly we are so characterized by the popular media and we do not shrink from that characterization.

We are for a strong defense. We are for it now. We would have voted for this bill months and months ago if this amendment, the Levin-Nunn amendment, had not been contained in it.

There is no question about that. There cannot be any reasonable question about it. We have made that offer repeatedly months ago and virtually at every point in the interval at which the majority has sought to bring this measure to the floor.

This is an unaccustomed role for the Republicans. Those of us who believe in a strong defense do not like the idea of delaying the defense authorization bill. We like even less the necessity for a President, this President in particular, having to veto this bill because it contains so pernicious an amendment as to taint the entire bill. That is a remarkable step for a President to have to take. I am not sure there is any precedent for that. But this President, who if he had stood for anything, has stood for rebuilding America's credibility by rebuilding her defenses neglected through the years that preceded his administration, is now suddenly placed in the position by the majority in both Houses where they seek to bring to his desk and ram down his throat a defense authorization bill that contains an amendment that he cannot and should not swallow.

Mr. President, he will not swallow it. He will veto it and we will sustain. But I do not think he should be put to that particular test. Candidly I am a little tired of the kind of politics that continually seeks to play partisan games and put on the President's desk a bill that he must veto. That is not serving the interests of the American people.

However much we may deplore the partisan gamesmanship in the domestic arena, at the very least I would hope that when we are talking about something as important as the survival of the American people and threats to their survival from ballistic missile attack, we would have the same good judgment that the American people do. They are sick to death of this kind of partisanship. They think that it ought to end at the water's edge, that we ought to have a unified defense and foreign policy, the kind that we had when an Arthur Vandenberg worked with a Harry Truman to save Greece and Turkey from becoming Communist, when a Democratic President pleaded with a Republican Senate to support him in taking the measures necessary to prevent a Communist takeover of Greece and Turkey in the years immediately following World War II.

It would be a very fine thing, Mr. President, if we saw a return to that. And there are Members on both sides of the aisle who are hungry for a return to that time and that temper. We cannot return to that time. But we certainly can return to that temper.

I heard a very fine speech by my friend and colleague, the Senator from Oklahoma [Mr. BOREN], when he received an award this year from the Washington Times, and it contained a very plaintive theme; and, that was, simply stated that the business of the United States in the area of foreign policy is simply too important and of such overriding importance to give way to the petty concerns of partisanship.

Mr. President, I am not holier than thou. I have been partisan. I will be again. It is part of our two-party system, hopefully a competition that benefits the public. But there is, I hope, in the perception of most men and women a reasonable limit to the kind of partisanship that we should engage in. I think this provision clearly exceeds it. If I am intruding upon honest conviction by my brethren, I will apologize for that. But I must say that I have to ask again if they had the wisdom to withdraw this kind of a provision last year when the President was going to Reykjavik, what makes this different? It is different. This is vastly more important. But the principle is the same. The principle is do not undercut the negotiations of the United States when they are negotiating with a skilled and determined adversary as the Soviet Union is in a matter as crucial as that having to do with arms control.

Mr. President, let me touch a few other bases here because there have been a number of questions raised by colleagues not on the Armed Services Committee who have not been party to the debate either in committee nor heretofore the debate on the floor.

They have asked a number of questions. One of these: Is the Levin-Nunn amendment even Constitutional? It is not, because, unlike other fencing arrangements, it expressly conditions further spending upon an interpretation of the treaty, the ABM Treaty and treaty interpretation is not a role given by the Constitution to the Senate of the United States or to the Congress of the United States.

My colleagues have asked, "Cannot the Senate interpret the treaties?" There is a very limited role given to the Senate even interpreting treaties that they have once ratified. Constitutional law says that it is the role of the President to interpret treaties. I can assure you that will not always make me happy. It has not in the past. It will not in the future. But it is the fact. It has to do with the thing we call separation of powers.

Colleagues have asked, "Does the Levin-Nunn amendment actually interpret the treaty; is it guilty of an unconstitutional overreaching?" And the answer to that, my friends, is yes.

Again, this is not a matter of style. It is a matter of substance and the language of the amendment expressly conditions further funding of the SDI Program upon acceptence by the administration of the narrow interpretation of the ABM Treaty when the President and his administration have announced that we are fully entitled to adopt the broad interpretation, one that does permit development and testing.

I have been asked, "Well, does it in fact afford the House of Representatives a unilateral one-House vote, a unicameral veto?" Yes, it does because in order to undo the constraint that is placed upon further spending, a joint resolution would have to be adopted and that can be frustrated by a majority of those present and voting in the House of Representatives, that House

to which the Constitution has given no foreign policy role similar to that conferred upon the Senate. And, of course, the Constitution gives to neither House the role of negotiation.

But the answer is, yes, it permits a majority of those present and voting in the House to defeat the kind of joint resolution that would be necessary to remove the block to further spending for the Strategic Defense Initiative.

Now the argument will be made, and the question has been asked me by colleagues, "Well, but is it not true that without the Levin-Nunn amendment, we would be handing the President a blank check giving him $4.5 billion to spend as he chooses?" Well, that goes back to the difference between the fence upon the MX, for example, and this purported fence which is nothing less than an ill-disguised usurpation of the Presidential authority because it conditions the action upon an interpretation of a treaty.

It is not giving a blank check. It is saying that we can go forward with the Strategic Defense Initiative in concert with an interpretation to which the Soviet Union evidently gave credence as late as March 1985. We have every reason to believe that they have conducted their own research policy with a view toward achieving a capability for development and testing, if they have not in fact engaged in some.

My colleagues, who have had the opportunity to go into the secure room, S-407, and avail themselves of the negotiating record of the ABM Treaty, have in most cases chosen not to do so, but they have at least asked. "Isn't the treaty itself ambiguous?" Parts of it are; parts of it are not, which means that, on the whole, on the face of it, the context of the treaty is ambiguous. It gives rise to different interpretations. The more reasonable interpretation of Agreed Statement D, just on the face of it, is that those systems that are devised in future on other physical principles will be governed by the provisions of Agreed Statement D, rather than the articles of the treaty itself. What Agreed Statement D provides is that if in future some clever fellow devises a system based on other principles than those in effect when the treaty was signed or those defined in the other articles of the treaty, any future deployment—not the development and testing, but the deployment—of that kind of system would depend upon consultation and agreement between the superpowers.

However, the fact of the matter is that the negotiating record of this treaty makes quite clear, and Judge Sofaer's analysis of it makes quite clear, as does Ambassador Nitze's analysis of it—and he was a participant in the 1972 negotiations that led to the ABM Treaty—that the proper interpretation is the broad interpretation.

Mr. President, does it make sense to spend billions of dollars engaged in pure research knowing that we will never use the research to develop and test the system that we are researching? Academic research is a splendid thing. The pursuit of truth is a splendid thing. But if we do not intend to develop and test this system, does it make sense to spend billions on it?

We will be told by those who were pushing the Levin-Nunn amendment that all this amendment does is say not that the President cannot go to the broad interpretation but that if he is going to spend any money going to it, he first has to get the consent of Congress, which is another way of saying that if the President is going to be able to spend money on it as he and the Joint Chiefs of Staff have requested, they will have to acquiesce to a mechanism whereby a majority of those present and voting in the House can deny them the right to go forward and implement the Strategic Defense Initiative under the broad interpretation.

That is what this is all about, and let us not try to delude anyone. This has been carefully fashioned to give an absolute veto of the broad interpretation to those who wish to exercise that veto, and they can be a very small number in the House of Representatives, and that is a mistake of tragic dimensions.

Mr. President, we will also be told that the Strategic Defense Initiative office, itself, has said that their present program is one that does not require the broad interpretation, that they can operate within the constraints of the narrow interpretation. All that statement means is that because they have been so constrained, they have, in response, designed their program to fit the constraints. It is a self-fulfilling prophecy.

However, what this document, entitled "A Report to Congress on the Antiballistic Missile Treaty," states very clearly is that it will cost us years of delay and billions of dollars in added costs if we are so artificially constrained—constrained not by technology but by imposing upon ourselves a unilateral concession that makes no sense.

This report, I remind my colleagues, is one that we requested. It says: "A Report to Congress on the Antiballistic Missile Treaty, as requested by section 217 of the fiscal year 1987 authorization act." We ask for advice, we get it, and we ignore it at our peril; because we are so wise that on the day that we celebrate the bicentennial of our Constitution, we celebrate it by trashing the separation of powers doctrine and by engaging in an unconstitutional act, as we intrude upon a function of the U.S. President, assigned to him exclusively by the Constitution, and that is the responsibility for the negotiation of treaties with foreign powers.

Mr. President, strange as it may seem, we have only scratched the surface here. There is much more to be said. But I would think that members of the public would probably conclude that quite enough has been said. Between what was said yesterday and what has been said today, I hope it is clear that what we have done has been not only to violate the Constitution, if we enact this Levin-Nunn amendment, but also, immediately after 92 Senators voted last night for an amendment by the majority leader which cautions us against Congress or the President taking actions which are unilateral concessions to the Soviet Union, that is precisely what we will have done.

Mr. President, I do not want that on my conscience; but, much more to the point, I do not want the United States to be placed in the position where we are artificially constrained, not by technology but by an interpretation for which there is much, much doubt. I will only tell you that the Soviets will not be so constrained.

Mr. President, we live in a world where, whether we like it or not, there are two superpowers. If those who believe that the superpowers have avoided nuclear conflict by a doctrine of mutually assured destruction—genuinely believe that—if they believe in the mutuality and reciprocity which is expressly stated as the goal, the principle endorsed by the Byrd-Nunn amendment of last night, then it is a contradiction in terms to say that we support the principle of mutuality and reciprocity, caution against unilateral concessions, and then engage in precisely the most glaring unilateral concession in the history of arms control. That is what this is about, Mr. President. That is why the Republicans on the Armed Services Committee, who were prepared to vote enthusiastically for this otherwise good bill, voted against it. It is why we will vote against it if this amendment is entered on the floor. It is why the President will veto it, and why it will be sustained.

Mr. President, I inquire of my colleague from Texas, if I can gain his attention, as to whether he is ready to take the floor. I am advised that he wishes to be heard on this matter.

Mr. WARNER. Mr. President, if the Senator will yield, I advise Senators who are following this matter that there are several Members on our side who are prepared to come forward. I have so advised the distinguished chairman of the Armed Services Committee. We are here to accommodate as many Senators as wish to speak this morning on this side of the aisle. We have a roster of those who are willing to come forward.

Seeing no Senator seeking recognition, I yield the floor.

The PRESIDING OFFICER. Who seeks recognition?

Mr. GRAMM. Mr. President, we have had a great deal of debate. I personally found it beneficial as we tried to focus on this issue. I would like to just touch on a few things that I think are important to the debate, and that I hope individual Members will look at, as we deal with this issue, which has become to some degree sort of charged with partisanship. I think these issues are critical, as we make what I believe is going to be a very fundamental decision that is going to affect not only whether we adopt a defense authorization bill this year or not, but how we are going to deal with the Soviet Union in the future, and that will have an impact on the overall relationship between the President and the Congress in terms of the conduct of American foreign policy.

I am opposed to the Nunn-Levin amendment for a lot of reasons. I am opposed, first of all, because this is a unilateral action. It never ceases to amaze me as we debate all of these issues in Congress, and I would note to our colleagues, that this is not the first time that we have had a debate concerning arms control and disarmament related to the armed services authorization bill. This debate has been going on for a couple of years as those of us who served on the conference committee and tried to work out our differences with the House are aware. Every time we go to conference we have these provisions, at least in the last 2 years, that have been adopted by the House that try to impose on the U.S. Government restrictions in some cases related to SALT II, a treaty that was never ratified, that the Soviets never abided by, and that has expired. We have had the broad versus narrow interpretation of the ABM Treaty as part of this ongoing debate. We have it here at a very critical time.

But the fact is that there has been a continuing confusion in the House as to what the jurisdiction of the Armed Services Committee is. It is not the duty of the Armed Services Committee to tame the Russian bear. There are other committees that have jurisdiction. We are an armament committee. Our goal is to keep the bear back from the gate.

So I would argue, first, that this is not an item which really belongs in this debate. It is an item that belongs somewhere else, I would argue not now, not in the Congress, but clearly not here.

But what has been missed for the whole 3 years that we have debated foreign policy and arms control and disarmament on the armed services authorization bill is, that actions taken in this great body and across the way in the House of Representatives do not bind the Soviet Union.

If we undertake an interpretation of a treaty here, we are doing so on a unilateral basis. What we might impose in the way of restrictions on the President, what we might write into the law in terms of restrictions on the Pentagon in expenditures for SDI, in no way will bind the Soviet Union.

So, first, I object because this is unilateral action.

Now, we have heard a great deal of debate, and I came today prepared to read all kinds of statements that were made in the midst of the ABM Treaty and in the wake of the negotiations in the Senate before, during, and after Senate ratification, and I could read extensively quotes from Mel Laird, quotes from Admiral Moorer, the Chairman of the JCS, quotes from Secretary Rogers, and the list goes on and on.

And I could by selecting from the record of public and private statements, if we could submit on the public record here, the negotiating records which are secret, I believe I could make an ironclad case for the broad interpretation of the ABM Treaty.

But I do not deny the fact that someone equally diligent could make a case for the narrow interpretation.

As I read the record, which is available upstairs, which is secret, the negotiating record, it is clear to me that while we sought a narrow interpretation of an ABM Treaty, the Soviet Union wanted no part of the narrow interpretation. That is why we had the provision related to new and exotic types of weapons systems, something we tried to prohibit, the Soviets refused, and here today because we are blessed with a free enterprise system and individual freedom that has unleashed the creativity of our people we now have had very important technological breakthroughs related to national defense and to defense against intercontinental ballistic missiles in particular that have now become very relevant to the arms control debate and to the defense debate.

Now we are in a position where we are approaching the types of new systems that the Soviets refused to limit under the ABM Treaty.

But there is no doubt about the fact that by picking and choosing, in looking at the negotiating records, in looking at public statements, in deciding to look at one section of the treaty and not the other, someone could make the case for the narrow interpretation.

I submit, Mr. President, that we are not going to settle this issue here. This is an issue that is ultimately going to be settled, I would guess, when the Soviets have gone so far into the broad interpretation that no one thinks it is a relevant debate. It just so happens that while the Soviets have huge leads in conventional forces and in other areas, in the area of high technology and SDI, we have a clear advantage. That is our cutting edge in terms of providing security for ourselves and for the free world. Because of that, this debate is relevant here today.

(Mr. SHELBY assumed the chair).

Mr. GRAMM. Now, one other thing that I object to about the Nunn-Levin amendment is that it gives a degree of control to an individual House of Congress, to in essence impose its interpretation of a treaty. This is not your normal appropriations provision whereby we say you can spend the money within these specified constraints. This is not a normal authorization for an appropriation where we say you will spend money in this broad category on these particular items.

This is a provision that says that if the President decides to move in the direction of an interpretation of a treaty he does not have to move in that direction; he simply has to begin to make plans on the basis of that interpretation, and I remind my colleagues we are not talking about a prohibition against testing. We are not talking about a prohibition against moving SDI outside the laboratory. We are talking about a prohibition of planning to move in that direction.

It is almost that you are taking a broad interpretation if you think about it. If there is anybody in the Pentagon doing planning on the broad interpretation, then Congress wants to have a right to vote on whether to release the funds or not.

Now, one of the problems is—and it has always been a problem with regard to public opinion and misunderstanding—I would hope with all the people we have got in the Pentagon that there are people over there today who are working on every possible scenario.

We are all amazed when we read in the Sunday paper, when there is no real news and they have to dig up something, that there is some guy deep down in a hole somewhere in the Pentagon planning for what a chemical war would be like. And we see a big headline, "Pentagon Plans Chemical Conflict."

Well, I hope to God that there is somebody in the Pentagon who is looking at what such a terrible conflict would be like, because the Soviets have chemical weapons. We do not have enough to carry on any kind of conflict, but they do. And surely there has got to be somebody over in the Pentagon making plans on that basis.

Well, surely, since the Soviets any day could take action related to a broad or narrow interpretation of the ABM Treaty—in fact, the Soviets have made it clear from the beginning that they have always taken the broad interpretation, except now when it is to their advantage to impose their inter-

pretation on us—surely we have got to have people working in SDI who are looking at the expenditure patterns and research related to the broad interpretation. In fact, if that is not going on today, we are making a tragic mistake.

But the Nunn-Levin amendment says if you are undertaking activities as a requisite for moving to the broad interpretation, even if you are not doing it during the year that this authorization bill will be in effect, if you are just planning it, if you are just looking at it in an outyear. And what constitutes looking at it? If you have got a team working on SDI and you have got a team that is working on the basis of a Soviet breakout. And I hope my colleagues will look at this problem. We know the Soviets are spending money on nuclear missile defense. In the history of the nuclear era, they have spent ten times as much money on nuclear defense as we have. We know they are spending money on SDI and probably more than we are even on the narrowly-defined SDI project, substantially more than we are on any kind of broadly-defined definition of strategic defense.

But one might argue under the Nunn-Levin amendment that if we have got people who are working to be prepared for a Soviet breakout and therefore that are working on a schedule of testing and even deployment in the event that suddenly we woke up tomorrow morning and discovered that the Soviets had made a technological breakthrough in laser technology or guidance technology or computer software and that they are moving toward a partial or total deployment, surely we have people in SDI who are looking at that possibility who would immediately be able to put a plan before the Congress, before the Pentagon that would accelerate our program. In fact, I would think that every person who is supporting the Nunn-Levin amendment would support such contingency.

But as I read the Nunn-Levin amendment it is not clear to me that that kind of planning, that those kinds of preparations would not by some interpretation mean that we are taking action and spending money related to the broad interpretation of the treaty.

Now, I ask my colleagues, if suddenly in the morning we woke up and discovered that the Soviets were beginning to deploy an SDI system, do we all of a sudden want to have in law a provision that prohibits even the planning for a breakout moving toward the broad interpretation? But that is not really the relevant question. People would argue, "Well, at that point we will vote to break out." But if we do not have plans, if we had not looked at that option, if we do not have contingency plans, we are going to be starting from scratch. This is part of the nonsense of this whole amendment. It says do not test SDI. Even though the Soviets have spent 10 times as much on nuclear defense as we have since World War II, we do not want you testing it. It might be provocative. Even though they are spending more money on it than we are, because we have technological advantages, we do not want it tested.

Now, you can view that as nonsense or tomfoolery or wisdom depending on your perspective. To me it is pretty clear, but to others obviously it is not, or my view is not clear to them.

But to take the position that we do not even want anybody looking at the potential of a breakout and therefore testing and deployment, that we do not want work being done that would pave the way for a broad interpretation of the treaty with testing or deployment, that is not in my opinion prudent public policy.

And what has happened here, in the desire to limit the flexibility of the President with regard to SDI, we are writing into law a nonsensical position that if carried to its logical extreme would say "Don't even plan for testing or deployment no matter what may happen at any moment in time."

That is what happens when you get into these situations where you do not want to vote on an issue but you do not want a decision made. And I guess one of my complaints here is that in foreign policy we in Congress are masters at telling the White House to not make a decision.

I remember on the reflagging incidents—and I have to admit I have shared concerns about reflagging in the Persian Gulf—the proposal was not to not do it, the proposal was to delay it. With 535 Members of Congress, none of whom have to take direct responsibility, we are masters at saying to Presidents who do have to take the responsibility: "Don't make the decision. Now we do not want to make the decision. We do not want to be answerable if the decision fails, but we don't want you to make the decision."

We are standing on the sidelines. We are throwing rocks. We are putting up roadblocks. But we do not want to share any responsibility.

This amendment is the result of that kind of mentality, because we are not voting here on language that says, "Don't do something." We are voting here on language that says if you decide to do something, then Congress wants to come back with what in essence is a one-House veto and we would have to approve it at that point. And what we are saying you cannot do is so poorly defined that what we are potentially precluding here is the actual ongoing work that should be done today about eventual testing and eventual deployment.

Can you imagine spending $4.5 billion of the taxpayers' money on a Strategic Defense Initiative and saying, "Oh, by the way, out of $4.5 billion, we don't want anybody to be thinking about how we test it. Out of $4.5 billiion we don't want anybody doing any planning about how you deploy it."

No. 1, that does not make sense, technically. If fact, until you have done some plans for testing, how do you design it? Until you have done plans for deployment, how do you test it? How do you design it?

What we are imposing here is a nonsensical position that says, "Go out and spend all of this money on pure research, but don't be looking at any kind of practical testing or implementation because we don't want you to do that. And if you decide to do it, if anybody is even going to think about doing it in its extreme form, we want to be able to vote on it."

Well, I think everybody knows that that does not make any sense. Science does not work that way. You can imagine trying to design an automobile where you said to people: Now, you can do all the designing you want to and we are designing—we at least expect some day we might build this car—but we do not want you to go out and test any of it; we do not want you to be planning to test any of it. We just want you to be designing it. That is imposing limitations that squander the taxpayers' money. It is not smart.

If we are not going to have SDI, then let us do not fund it. But if we are going to fund it, let us not shackle it to such an extent that we do not get our money's worth.

My view on this thing is clear. The Soviets are going to build an SDI system. They are going to build it as soon as they can get technology in place to do it. We have got several options.

We can wait around until they do it and then decide at that point that we are going to get serious. I do not think that is wise policy, in part because they have got such superiority in conventional weapons and in throw weight on nuclear weapons, that we need that technological cutting edge of SDI to maintain the balance of power to keep the peace.

Second, that kind of approach, of waiting until the Soviets do it, not only did not make sense because of the imbalance in other areas but it did not make sense because they may have a breakthrough, gain an advantage, and then what would our situation be?

There are those near and those around the country who argue: It would not be good for the United States to be able to defend itself against Soviet intercontinental ballistic missiles; that that would be destabilizing; that that would represent a

provocation that would make this bear angry and God knows what he would do if he were angry.

The problem with that logic is the bear is already angry. The Soviets are trying to build this system. Their problem is, however, that they do not have the technology to do it.

If we wait around until they develop the technology to do it, we are going to lose our comparative advantage and, in the process, we are going to pay billions of dollars and incur risks to the life and freedom of every person who lives on this Earth.

So, clearly, I believe that we ought to get on with the job and build SDI. There are those who say we should not. But I guess my frustration here is we are not debating the issue, again. We are debating the debate. We are debating language that says you could do research but you cannot even do any effective planning to test and deploy it. That makes no sense. That is the kind of hobbling that guarantees that our runner will not win the race. It is inefficiency. It is a waste of the taxpayers' money at the very time that not only is Ivan at the gate, but the wolf is at the door.

I do not know whether Members of the Senate are aware of the fact that we are working—in fact I just came from a conference, trying to deal with this wolf at the door, trying to revitalize the Gramm-Rudman-Hollings balanced budget law.

We all know that we are looking at a budget which has been adopted by this Congress that takes us back to the level of defense spending as a percentage of GNP that we had when Jimmy Carter was President and we all remember that unhappy era. We all remember the bipartisan support that strengthened defense but at the same time we are moving back to that direction. We are saying, let us hobble our most important and innovative defense program, SDI. It does not make sense economically, it does not make any sense militarily.

But there is another problem altogether. Even if everything that I have said were not true, this is still a bad idea. Even if this was not a nonsensical position, to say we do not want people planning for testing and deployment and if you go and do that we have got to come back and get a separate congressional approval on whether to go to the broad interpretation or not—not doing it, but just planning it. Even if hobbling defense expenditures at a time when we are broke made any sense, there is still an overwhelming reason why the Nunn-Levin amendment ought to be rejected. It ought to be rejected because it gives the Soviets, through action in the United States Senate, those things that they cannot win at the bargaining table in Geneva.

Can you imagine what a difficult position we put our negotiators in when we are trying to write into law the demands of the Soviet Union at the bargaining table? What kind of cooperation between the legislative and executive branches of Government is that? Sure the Soviets must be mystified as how nonsensical this whole process is.

I do not think there is anybody here that would argue that the Soviets have come back to the bargaining table because suddenly their longing for peace and tranquility on this Earth has been rekindled. In fact, the Soviets said they would never come back to the bargaining table unless we stopped SDI. Everybody remembers that. They were pounding on the table and they walked out and they said they would not come back.

But guess what? They came back to the bargaining table.

Why did they come back? They came because of SDI, and they came back because of what we have done since 1981 in modernizing our conventional and strategic forces. They came back because it was in their interest to come back, and the Soviet Union is motivated by only one set of interests and that is Soviet interests. We continually forget that, to our great peril.

The Soviets came back to the bargaining table because they fear SDI.

As the distinguished Senator from South Carolina, STROM THURMOND, said when he came back from his meeting with Gorbachev: You know, the one thing I came away from that meeting absolutely convinced about is that SDI scares that man to death. In fact, the Soviets have done for SDI what Ronald Reagan, the Great Communicator, could not do. They are so adamant against SDI that they have about convinced the American people that if they are so much against it, that despite all these "experts" who say it could never have worked, it is a silly idea, it is a waste of money, it is a boondoggle—if the Soviets are so convinced that it represents peril to them, there must be something good about it.

You do not need a Ph.D. in nuclear physics or in aeronautical engineering to know that if the Soviets continually desperately want us not to invest in SDI, they probably are not trying to promote efficiency in our defense budget. They are probably not trying to keep us from going down a technological dead end.

They are fearful of what we will be capable of doing in defending ourselves. The plain truth is, and everybody knows it, the Russians are back at the bargaining table because of SDI. That is why they are back.

They are back because they fear American technology; because, by having a repressive government that denies human freedom they cannot unleash that spark of creativity that has done more than anything else in the postwar period to preserve our freedom and to keep the peace.

We do not have peace today because we are more dedicated to spending money on defense than the Soviets. The truth is, totalitarian societies have an advantage in defense because they can force their people to spend the money. Defense has declined as a percentage of GNP and as a percentage of the budget almost by 50 percent since John Kennedy was President, because democracies and the political constituencies that are built around programs, tend to rob defense to give money to constituencies who then vote for those who give them the money.

What has maintained the edge that has kept the peace is technology. The Soviets cannot match it because creativity comes from freedom. And they cannot give that without having their system destroyed internally, and that is their dilemma.

What we are doing here is taking away the one advantage that we really have. The Soviets are back at the bargaining table because they fear SDI; because they fear American technology.

Now, what does this amendment say to the Soviets? The Soviets reading this RECORD—and it must be terribly boring through most of the long debates—but when they get down to the Nunn-Levin amendment, it must produce some, "Look, Comrade," response. And they say: What the Congress is saying to the American President is we are not sure we are serious about this SDI business. You can do all the testing you want to. You can test, you can theorize, you can use test tubes, you can work within a laboratory. But do not even think about testing on any kind of operational basis. Do not even do any planning about deployment. And, if you think about doing one of those things, you have got to notify Congress and then both Houses of Congress have to vote to say it is OK.

Either House of Congress can say, no, we are not going to let you do anything with this SDI research. You can do all the pure research you want to, but either House of Congress, by this amendment, is reserving a privilege on a one-House veto basis, of saying: No, we do not want to do anything practical. Spend the money, but do not let it be directed toward the actual defense of America.

What does that say to the Soviets? That says to the Soviets: Here we are, speaking now on behalf of these Soviets—something I am not qualified to do—but here they are, spending all this energy trying to negotiate treaties that in some cases represent giving up advantages to themselves to try to have an impact on SDI, and Congress is doing, through votes, what the Rus-

sians are negotiating to get the United States Government to do.

I do not know most people in the Senate feel about bargaining, but I feel that if a fellow is likely to give me what I want without me having to give him anything if I will just wait long enough, I am not going to be in any hurry to try to cut a deal with the fellow.

I have not dealt much with the U.S. Congress in any kind of representation of foreign powers, so, quite frankly, I have never had any dealings with anybody who was that dumb. But if I ever did, and I figured if I just waited they were going to do what I wanted them to do, why should I negotiate dismantling nuclear missiles? Why should I negotiate the START talks? Why should I negotiate losing something that I have an advantage on when Congress is going to make the President do what I am negotiating with him to try to get him to do?

Even if everything I have said here is nonsense, and I do not believe that it is, but even if it were, the reason that we ought to defeat this Nunn-Levin amendment is that it gives the Russians, through action in Congress, what they cannot get at the bargaining table.

Why should we give away our technological edge, limit our ability to look at putting that technology to use, when the Soviets are willing to negotiate on the basis of giving up some of their advantage for what we are in the process in this very room, in this very debate, in giving?

Our negotiators are at the table today, negotiating a treaty in the final phases with regard to nuclear missiles in Europe. The final dotting of the i's and crossing of the t's is occurring even as we speak. The beginnings of a potential movement beyond that to start talks that would reduce the number of nuclear weapons in this world is in its infancy even as we speak. We should defeat the Nunn-Levin amendment if for no other reason than because it undercuts our negotiators in Geneva by giving the Soviets for nothing what they are willing to negotiate for. It is poor policy. It wastes the taxpayers' money. It is nonsense as a policy of defense to invest in something but commit not to do anyting that will allow you to ever use it. It gives unacceptable power to one House of Congress to veto a decision that the President has the right to make in terms of interpreting the treaty. The Supreme Court has ruled over and over again that when in doubt concerning the meaning of an international obligation or treaty, the broad interpretation should always be taken.

But all of those things aside, do we in the Senate want to be giving the Soviets what they cannot win at the bargaining table? I answer that, "No." This is bad policy. We are not going to have a full-scale testing of SDI this year. Let us debate the issue. Let us not hobble this program.

We all know that if you look at these votes, increasingly there is a partisan tone. I believe the President will veto this bill if these restrictions are in it. I will urge him to do that. I will vote to sustain the veto. This issue is not going away. It is going to be back. It is going to be debated. I think it is important that people understand this is bad policy. This undercuts the President. This does not promote the interest of world peace. It does not protect our people. Our people are paying tremendous costs to be protected. Our people are paying very high taxes. The working men and women in this country today are seeing government at all levels take 40 cents out of every dollar of income. I do not believe enough of that money is going to defense, but, for God's sake, when we are going to spend the money on defense, let us not hobble ourselves to guarantee that the money is not well spent.

If the Congress does not want SDI, cut out the funding and spend it on something else. But if we are going to spend the money on SDI, let us not so hobble the process that we cannot get our money's worth. And if we are going to do that, if tomfoolery is so prevalent in the Congress that we cannot resist doing it, let us at least wait until we are away from the bargaining table so that we do not encourage our enemies to think that we are so foolish that if they will wait long enough, we will do everything they desire.

Those are the issues. I hope Members will look at this amendment; that Members will look at it not on a partisan basis; that they will weigh the full issues, and that they will make a choice in the American interest.

While I respect every Member of this body and recognize, as Jefferson said long ago, that good men with the same facts can still disagree, I believe, if you look at all the facts, that we should not be doing this now. I urge my colleagues to vote to strike the Nunn-Levin amendment.

I yield the floor.

Mr. WARNER addressed the Chair.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. Mr. President, I wish to commend the distinguished Senator from Texas, a very valuable member of our committee. Obviously, he has invested a great deal of time in dealing with this issue. We owe him a debt of gratitude for sharing with us today his wisdom.

Mr. President, we have other speakers. However, we do not want to monopolize the floor if there are speakers on the other side. We also recognize the presence of the majority leader on the floor.

Mr. DIXON addressed the Chair.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. DIXON. May I first inquire whether the majority leader has any other matter?

Mr. BYRD. I thank the Senator. I do wish to proceed for about 30 seconds.

Mr. DIXON. I yield.

ORDER FOR RECESS FROM 12:30 P.M. UNTIL 2:15 P.M. TODAY

Mr. BYRD. Mr. President, the ceremony recognizing the Bicentennial of the Constitution will occur today on the west side of the Capitol.

I ask unanimous consent, in order to allow Senators to attend that ceremony, that the Senate stand in recess from 12:30 p.m. today to 2 p.m.

Mr. WARNER. Mr. President, I was just thinking, if the ceremony is over at 2, should we allow, say, 10 or 15 minutes for Senators to return to their places?

Mr. BYRD. Very well. I think that is a good idea.

Mr. WARNER. That 15-minute period would be satisfactory, so I would suggest 2:15.

Mr. BYRD. Very well. Let us make it 12:30 to 2:15 p.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. I thank the Senators.

Mr. DIXON. I thank the majority leader.

Mr. President, I will not speak at length. I see my distinguished friend, the senior Senator from Louisiana, is here. Many know that in the last session of the Congress the Senator from Louisiana was a leader in the debate concerning the funding level of the Strategic Defense Initiative, and my recollection is that it was his efforts which ultimately achieved the level of funding that the Senate provided in the DOD authorization bill which went to conference.

So I am sure my colleagues will be interested in hearing the observations of the distinguished senior Senator from Louisiana, who has been a student of this issue and I am sure will make a valuable contribution to the discussion.

May I say, Mr. President, that as a member of the committee I have appreciated the remarks of the ranking member, the Senator from California, the Senator from Texas, and others on the other side who have discussed this question. I am delighted to see my friend and colleague, the distinguished Senator from Alabama, in the chair because he is a valued member of the committee and he remains well informed on this subject matter from the considerable amount of time spent in committee on the issue.

I want to come back once again as one of the managers of this bill to the central theme, which is this, Mr. Presi-

dent. We are not arguing the broad interpretation of the ABM Treaty or the narrow interpretation of the ABM Treaty. We are arguing here Congress' power of the purse over all or any expenditures and, in the context of what we are doing here specifically, the Congress' power of the purse in connection with authorization and appropriation of funds in the interest of our national defense.

The President knows that in this session of the Congress where we have very difficult fiscal constraints, one of the main responsibilities of those of us in the Armed Services Committee and particularly those of us who are chairmen of major subcommittees is to meet our obligations and to reach those reductions that were necessary under the directions given us by the Congress. And my friend from Texas, who spoke so eloquently just a moment ago and has now left the floor, is the father of Gramm-Rudman-Hollings, one of the strongest fiscal constraints that forces us to bring about these kinds of reductions that are called for in the process we are going through right now.

Now, let me read again, so that my colleagues who are not on the floor will understand what we are debating, Mr. President.

This is the bill, S. 1174, Mr. President. Page 3 of the bill. I read lines 10 through 15.

Funds appropriated or otherwise made available to the Department of Defense during fiscal years 1988 and 1989 may not be obligated or expended to develop or test antiballistic missile systems or components which are sea-based, air-based, space-based, or mobile land-based.

Now, that is what we are arguing here, and that is nothing more than an exercise of the fundamental power of the purse by the Congress.

May I say further, Mr. President, that the amount of money that you and I voted for in that committee, $4.5 billion, for SDI is substantially more than I suspect the Senate will give us in the end, is substantially more than the House has funded, and is substantially more than the conference will authorize ultimately. And some on our committee—and, incidentally, not necessarily the present occupant of the chair or this Senator—would not have voted for the $4.5 billion but for the fact on page 23 we exercised the power of the purse over how that $4.5 billion would be used.

During the committee's hearings on this bill, Mr. President, General Abrahamson testified that all SDI research projects and all planned major experiments for these 2 years have been designed to fully comply with the traditional interpretation of the treaty.

Now, listen to this. This is a matter of record. In response to a question from the distinguished senior Senator from Alaska [Mr. STEVENS] at a March 19, 1987, Defense Appropriations Subcommittee hearing as to whether he could assure the Congress that the money will be spent in accordance with the President's current decision of the narrow interpretation—now, that is a direct quote of Senator STEVENS—General Abrahamson replied, a direct quote:

That is the way the budgets were put together and that is the way our plan is presently laid out. The answer is yes, sir.

Now, Mr. President, we took General Abrahamson—at his word, and we said, "Good, we are going to give you $4.5 billion in authorized funds in this committee." That is a lot of money. That is substantially more than last year—I think 22 percent more than last year. Twenty-two percent, Mr. President. Name me any other program in the Congress we are talking about that has been increased 22 percent. Name me one. We said we will give you 22 percent more. Now, I do not think that will hold up on the floor. I am here to confess that. But that is what we did in the committee. Spare parts, ammunition, and other things were shorted so that SDI could get a 22-percent increase. And we said but we are going to put in the Nunn-Levin language, and here it is.

Here is an article in Aviation Week, August 17 of this year, "SDI Programs Face Delays Due To Fiscal 1988 Cutbacks."

We protected most of those delays by this language to which our colleagues now take exception.

But I want to return to the final simplistic theme before I yield my time. This is not a discussion of the broad or narrow interpretation of the treaty. There have been some marvelous speeches made here by some very learned Members on that subject. That is not the issue.

I want to make this argument just to be a devil's advocate, Mr. President. If you conceded the broad interpretation, if you conceded that, this would still be entirely appropriate. We have a right under the broad interpretation to say look, you will not spend any money on these kinds of experiments over the amount that we appropriated this year. We have that right. That is part of the exercise of the power of the purse. I am involved in all kinds of fencing activities in this place.

This Senator is exceedingly proud and thinks one of my main contributions is the time that we fenced the money for the divad gun that could not hit anything until they completed the test and they gave up the gun. If I spend the rest of my life here I may never save $4.5 billion for the taxpayers like I did in one fencing sentence that one time, Mr. President. There is nothing the matter with fencing money.

So I conclude because it will be my pleasure, Mr. President, to yield to my warm friend who has made such an important contribution on this same issue, the distinguished senior Senator from Louisiana, by saying that this is not an exercise in the interpretation of the treaty. The treaty is a law. A lot of different people can interpret that. That is their power to do that in any manner they see fit. I support the interpretation of the Senator from Georgia, my warm friend, the chairman of the committee. But this is an argument over our power over the purse. I call upon the membership on this side which believes in exercising fiscal constraint in a responsible way to exercise that fiscal constraint and to support the committee, Mr. President, in connection with the language on page 23, lines 10 through 15 which says that you cannot do that kind of testing under the $4.5 billion we have authorized. I would hope that we defeat the amendment offered to strike the Nunn-Levin language.

I thank the President and I yield to my colleague from Louisiana.

Mr. JOHNSTON addressed the Chair.

The PRESIDING OFFICER. The Senator from Louisiana.

Mr. McCAIN. Will the Senator yield for one comment to my distinguished friend from Illinois concerning his remarks?

Mr. JOHNSTON. Yes.

Mr. McCAIN. I would like to express my appreciation for some very strong remarks and very cogent argument on the part of my friend from Illinois.

I would like to remind him, however, that at least from the view of this Member, and I believe those on this side, the Levin-Nunn amendment had no connection to the amount of money that this Member voted to authorized for SDI. In fact, the Nunn-Levin amendment came at the very end of the deliberations of the committee, long after we had decided the level of funding to be authorized for SDI. I think that is an important point to be made here. At least Members on this side had made no connection whatsoever. In fact, we hoped the good judgment of the committee would prevail. We would not have such a restrictive limitation placed in the authorization bill which has led us to the impasse we are in here today which has delayed the approval of this authorization bill for now over 5 months and portends, at least to this Member, a much longer delay.

Mr. DIXON. Would my friend yield for this kind of response? I do not want to take the time of my friend from Louisiana. I only want to respond by saying that notwithstanding what the Senator said about that, there were Members on our side who had the greatest reluctance to support the

funding level for SDI in this bill without this kind of language. However, it turned out chronologically the Nunn-Levin amendment and SDI funding were linked together in the final bill. I hesitate to impose upon the time of my friend from Louisiana.

Mr. McCAIN. I appreciate the time of the Senator from Louisiana.

The PRESIDING OFFICER. The Senator from Louisiana has the time.

Mr. JOHNSTON. Mr. President, first of all, I want to commend the minority part for letting this bill get back on track. I think the plan now is to vote on the various amendments and let the Senate work its will, let the President exercise his veto if that is his will. And I will guess it is, and in any event, to let the Senate go on record on this matter.

I think that is good sense. I think it is good government. I might say it is somewhat inevitable because we could have put ourselves through all of these loops and hoops and delays and ended up on the appropriation bill with the exact same vote. A vote on these matters cannot be avoided because they come finally on the appropriation bills. I can guarantee you that we would vote on the appropriation bills if we did not vote here. So this makes good sense.

I commend the minority party for their wisdom in this matter even if it is wisdom late acquired.

Mr. President, I want to respond to two points which the distinguished Senator from Texas made with respect to SDI and with respect to the Nunn-Levin amendment.

First of all, let me repeat here what I have said before; that is, I am a very strong supporter of the Nunn-Levin amendment. The Senator from Texas said that the Nunn-Levin amendment prevents planning and research on SDI technologies. The very clear fact is, Mr. President, it does not prevent planning and research. Indeed, planning and research is going on right now in a whole host of weapons systems, with beam weapons, with the free electron laser, with the Eximer laser, with the neutral particle beam, with the nuclear shotgun, with the rayogun, with the improved BAMBI Program, that is a rocket space-based kinetic kill vehicle, and with a whole range of weapons. That research and that planning is proceeding. That is not prevented by the Nunn-Levin amendment.

All that is prevented by the Nunn-Levin amendment is testing and development. Testing is the predecessor of development. You cannot develop until you have tests, and both testing and development are prevented by the ABM Treaty. As a matter of fact, those are the terms that are used in the ABM Treaty that are specifically prohibited along with deployment but testing and development are prohibited. The obvious reason that they are prohibited in the Nunn-Levin amendment is that we do not want some member of the executive branch making the decision on this own to break the ABM Treaty, and to get off into a new space race without the Congress even knowing about it.

The reason that this kind of amendment is necessary is because of the broad latitude given by the Appropriations Committee and by this Congress through the appropriations process to the SDI Program.

In effect, what we have done, Mr. President, is given very broad latitude to General Abrahamson and the Office of Strategic Defense Initiative. We have done that for a very good reason. First of all, we are not scientists in the Congress, and we cannot and we should not micromanage that program. We should not divvy out every dollar as we do in other defense programs saying what can be built, what can be tested, and how many dollars for each contract on each research program. Rather, we have given the money in very broad categories.

It is not only within our constitutional power to micromanage, and to give line items for every item to be spent within the SDI budget, but it is usually done with most appropriations programs. But we felt that they ought to be given broad latitude because it is a fast-moving research field where something which in January seems like a good idea by July would not be a good idea. So it is our desire to give very broad latitude and the greatest degree of flexibility to the SDI goal that has made necessary the Nunn amendment. If we did not pass a Nunn amendment, then indeed we could achieve the same purpose by carefully limiting each line item so as not to include any of these tests, and so as to require a reprogramming decision, which in turn would have to be approved by Congress, in order to achieve the purpose of breaking the ABM Treaty.

So, Mr. President, the statement of the Senator from Texas that this prevents planning and research simply does not comport with the facts and the very same language of the Levin-Nunn amendment. All that prevents is development and testing. Those are the words used in the amendment: "No funds may be obligated or expended to develop or test antiballistic missile systems." It is just as clear as anything could be that that is all that is prevented.

Point No. 2 of the statement of my friend from Texas, Mr. GRAMM: He said that the Senator from South Carolina [Mr. THURMOND] talked to Mr. Gorbachev, and he came back and said it is clear that this "scares the bejesus out of Mr. Gorbachev."

The answer is, So what? I might say that it also scares me. The idea of getting off into a multibillion dollar spending program that does not make the country safer scares me a great deal. If you can figure where that money would come from, I can tell you that it would take very large amounts of taxes and would get us off into a new space race.

Mr. President, the idea that what scares the Soviets has to be good for us, and what is bad for them has to be good for us simply does not hold water. It is the kind of mentality which now has produced over 10,000 nuclear weapons on each side, which has seen those nuclear weapons grow by a factor of four since the first SALT treaty was entered into. It is the space race mentality.

The Soviets do not like us to build more nuclear weapons, so therefore we build them. I guess the reverse mentality is that we do not like them to build them, and therefore they build them, and you have these huge stockpiles of weapons that make the world a less safe place and do not give the United States additional security.

So, Mr. President, I think the fact of whether this scares or does not scare the Soviets is irrelevant. The question is, Does it contribute to our security? I think the answer is that a premature deployment of SDI and a breaking of the ABM Treaty would be the very last thing this country should do in terms of its own security, let alone whether the Soviets like or do not like that action.

No. 3, Mr. President, let me speak about the treaties. I had the honor of being one of the observers at the Geneva arms talks. There are really three separate negotiations going on in Geneva. One has to do with the intermediate range nuclear weapons. That is the treaty that is ready to sign, with the exception that the issue of the 72 Pershing 1-A missiles has not been fully worked out, at least as of the last time I have received information. That treaty is thought to be ready to go.

The intermediate range treaty has never depended upon SDI. It has not been driven by SDI. It has not been made possible by SDI. It will not be prevented by a failure to agree on SDI. That was implicitly clear on both the American side and the Soviet side in Geneva. I think it cannot be argued to the contrary, because no agreement in SDI is possible in the next few months, and yet we are going to get an intermediate range treaty.

The Soviets want an intermediate range treaty because the flight time of those missiles, some 10 to 12 minutes to Moscow, would put at risk the leadership of Moscow. The Soviets value their leadership, the safety of their leadership, much greater than the United States does. To put it another way, in a democratic society, elected

members of a society cannot protect themselves—or, should we say, ourselves—greater than the ordinary population.

In a totalitarian system such as the Soviet system, the ruling politburo, the ruling bureaucrats, can and do put their own protection as their first priority. The Pershing I-A missiles threaten that leadership, and that is what has driven the intermediate-range treaty. The START talks—the Strategic Arms Reduction Treaty—does depend on SDI; and I can tell this body, as common sense would dictate, that no START treaty is possible until an SDI agreement is made.

The reason for that is very simple, and it is that if you can stop 25 percent of the ICBM's that are coming into a country, the obvious response for the country which does not have the SDI is to increase their warheads by 25 percent. So the Soviets are not going to be reducing their warheads by 50 percent while we are deploying an SDI. It simply does not make sense, and it will not be done. We can argue about that all we want, but it is very clear that the Soviets are not going to fly in the face of common sense.

Item No. 4, Mr. President, has to do with the question of the narrow versus the broad interpretation of the treaty. The narrow and the broad interpretations of the treaty deal with what we call agreed statement D, which contains certain expectations for weapons or antiballistic missiles based upon other physical principles. The phrase "other physical principles" has come to be described as exotic principles; and to the extent that a technology is thought to be exotic, the broad interpretation of the treaty would say that you can test and develop weapons based upon an exotic technology.

Mr. President, exotic technology in this context is thought by Judge Sofaer and others to mean beam weapons. Those are the laser weapons and the neutral particle beams and the other kinds of beam weapons.

The interesting thing is that those beam weapons are really not ready for testing at this point. The beam weapons are some years away from development to the point of real testing. There might be a small subcomponent test of an underpowered laser that could be done, not as an antiballistic missile but as a discrimination device. But in terms of using the beam weapons as antiballistic missiles, that is many years away, if it can ever be done. Most experts would say that that is probably the late 1990's or after the turn of the century, before that would be ready.

What these tests are about, and what the controversy is about, is what we call space-based kinetic kill vehicles. Space-based kinetic kill vehicles are simply, as some would describe them, smart rocks—that is, a warhead that does not contain an explosive charge but which disables the antiballistic missile by the force of its own kinetic energy; hence, the phrase "space-based kinetic kill vehicle."

There are varied iterations of that. One is a shotgun, which literally shoots bits and pieces of material. Another is a space-based rocket. The space-based rocket, the SBKKV, is really very old technology.

(Mr. GRAHAM assumed the chair.)

In the early 1960's we began a program called BAMBI. I forget what BAMBI stands for but it is one of these acronyms that the Air Force had. But it was more than just a paper study. It was indeed a paper study. I hold in my hand the BAMBI study which has been submitted to us by the Department of Defense, and in this BAMBI study they developed a very thorough, well-though-out system of space-based rockets with heat-seeking guidance systems which would actually collide with the incoming ICBM and that was a program which was thought worthy of deployment by some at that time.

In 1962, actual tests were done with rockets fired from airplanes at incoming ICBM's with again the heat-seeking device, detecting the warhead as it entered the outer atmosphere and colliding physically with the warhead.

I mentioned this, Mr. President, because this is precisely the technology that is thought to be the subject of early deployment by SDI and by others in the administration.

No other technology is ready. That is the architecture that is being discussed. That is what the controversy is all about—space-based kinetic kill vehicles with orbiting rocket pods. It has been testified to before our committee, on the Defense Appropriations Committee. It had been written about in the literature.

So, the question is, Mr. President, is that a system based on other physical principles? Is it exotic technology? Why, Mr. President, the question answers itself. How could it be other physical principles, how could it be exotic technology when it is well thought out, when you have a study of this thickness and this thoroughness and when you had actual tests, actual tests?

Why, Mr. President, it is absurd, it is absolutely absurd to say that that kind of system meets the criteria of agreed statement D as based on other physical principles.

And, indeed, when Ambassador Nitze came before our committee, I showed Ambassador Nitze a letter which he had written in 1977 in which in correspondence to—I forget who his letter was to, but it is in the record. But I asked him, "Do you agree that BAMBI was a space-based KKV, that it was well understood at the time, and that at least as of 1977 you said it was your clear intention that it bar engineering development, it being the treaty, bar engineering development of BAMBI?"

Ambassador Nitze said "That is correct."

"Now, would you tell me, Mr. Nitze, has anything happened since 1977 to change your view of that?"

Ambassador Nitze said, "I still think that is a correct view if you want my opinion."

That was testimony earlier this year before the Defense Appropriations Subcommittee.

The predicate for those questions and in the Defense Appropriations Committee was the fact that he had written a letter in 1977 to Donald G. Brennan—I have the answer now—of the Hudson Institute, that letter being July 8, 1977, in which he had said in that letter and I quote:

> This brings me to the operative questions, what can we properly do under the treaty and what could the Soviets arguably get away with?
>
> It was our clear intention that article V bar engineering development of a BAMBI type ABM system.

So, Mr. President, common sense says you cannot deploy, test or develop a BAMBI-type system. Ambassador Nitze said then, said in 1977, and says now, that it was the clear intention of that treaty to bar a BAMBI-type system, and the question is: Is this space-based KKV a BAMBI-type system and the answer is unquestionably so. It is based upon the same physical principle, a rocket fired from an orbiting pod with a heat-seeking finder and with a kinetic killing device.

In virtually every single principle, it is not only similar, it is identical. As a matter of fact, Mr. President, even the shape of the system is the same. In the Washington Post of April 2, 1987, we supplied from that study the shape of the system and put it next to the present system and it is virtually identical in design.

Mr. President, it is beyond question that what I am saying is correct.

Now, what does the administration say? They do not say that a BAMBI-type system, that the space-based KKV is not barred by the treaty. They do not say that. They said, "We do not know."

What you get out of the administration is doubletalk. As a matter of fact, if I recall correctly, we asked this question to Secretary Weinberger and he being unaware of the extent I guess of the BAMBI study said in effect that, well, we are studying that but we think it is different because BAMBI had an exploding warhead whereas we are talking about a kinetic kill warhead.

Excuse me. That was not Secretary Weinberger. That was Richard Perle, the Assistant Secretary of the Department of Defense.

But I think that it is correct to say that the administration either has not made up its mind on this question or that it speaks with several voices, or at least it is unpredictable as to where the administration will come down on this question of is the space-based KKV a BAMBI-type system.

So, Mr. President, if it is a BAMBI-type system, and there is just not any doubt that it is, it is prevented by the broad interpretation of the treaty and by the narrow interpretation of the treaty. It has nothing to do with that because it is not based upon other physical principles. It is based on principles that are as old as 1962 which have been tested indeed in 1962.

So, that leads to the ineluctable conclusion, Mr. President, that if the administration is in doubt about something so fundamental as that decision, then we in the Congress better put something in so at least we will have some control over whether that treaty is broken, maybe inadvertently. Maybe the administration has a lack of information in spite of our assiduous efforts to show the administration what is in their own studies, or maybe some read and do not understand. None is so blind as he who will not see or so deaf as he who will not hear.

And the plain words are there. But maybe they are being ignored simply on the basis of—I do not know on what basis. In any event, Mr. President, it is very clear that what the administration or what some in the administration have in mind would violate the treaty under a broad or narrow interpretation and we must, therefore, have the Nunn-Levin amendment in order to prevent that.

If the Congress does want to get into a testing program or a deployment program or a development program, then we ought to go into that with our eyes wide open. Just yesterday the administration said, "Well, the cost of this space-based KKV program has now doubled." Instead of being about $40 billion to $60 billion, the first estimate, they say it is now around $100 billion.

I have news for them, Mr. President. They cannot touch it for $100 billion. And do you know, Mr. President, how effective that architecture would be? If it worked and if it were deployed at whatever cost, even if you could get it at $100 billion, you are only talking about a system that would shoot down about 1 in 5 of the Soviet incoming ICBM's. And you are also talking about a system that could be easily defeated at much less cost and on a much quicker timeframe by the fast-burn rockets.

Now, why do I say that? I say that because the administration's own experts say that. In other words, if you have got a space-based KKV based upon orbiting rocket pods with sensors that sense the plume of that rocket as it comes up through the atmosphere, then it has got to be able to get to that plume before the plume burns out. And if you put a fast-burn rocket—by fast-burn, I mean something in the neighborhood of 100 seconds, maybe even 150 seconds would do it. The SS-18 now has a burn time of 300 seconds, so that is a long time within which that plume can be observed by the heat-seeking orbiting battle station. But if they reduce that by half, and that is, according to all the experts, known technology. It is not exotic technology. It is known.

So if the Soviets put in that fast-burn system then it defeats catastrophically, according to the lead scientist at Lawrence Livermore Laboratory, it defeats catastrophically the space-based kinetic kill vehicle. So, oops, there goes your $100 billion if you could build it for that amount. So if we are going to make those kinds of decisions, Mr. President, we ought to be brought into it because you know if the administration breaks the treaty and starts the race, then you are into it. Once you start that race and then the Soviets are doing their thing, then you have got to do your thing and then it is a tit for tat and we are off to the races.

For example, do we have any choice now as to whether to go to MIRV missiles, multiple independent reentry vehicles, where you put 10 or maybe as many as 20 independent nuclear bombs, warheads, on a rocket? No, we do not have any choice because we chose not to enter into a treaty back when we could have. Back in the late 1960's and early 1970's, we could have had a treaty which could have said do not put, I think it is, 12 warheads on the SS-18 or 10 warheads on the MX missile. We could have chosen not to do that which would have vastly reduced the number of warheads. We chose not to do it. Once you are in the race, you do not have a choice. And that is what would happen with respect to SDI.

Once you are in the race, you do not have a choice. You can say, well, it may or may not work or $100 billion is too expensive, but when you are in that race, Mr. President, it is too late to talk about "Shall we do it or shall we not do it?" We would have already done it. The credit card would have already been charged and the bill would be on the way. Now is the time, before we break the treaty, to make those kinds of decisions.

Now, finally, Mr. President, I would like to deal with the question of why should anybody object to this great defensive system, this astrodome that the President wants to put over the country. Why should the Soviets be scared to death, if that is a correct statement of what Gorbachev says? Or why, conversely, should we be afraid if the Soviets develop such a system? Well, the reason is plain, Mr. President, that SDI is more useful as an offensive system than it is as a defensive system. It may not work. In my judgment it probably will not be effective, at least not for over a decade, no matter how much money we want to spend on it, as a defensive system. Because you simply could not get enough of the warheads. Where it is very, very useful is as an offensive system. Why is that so?

First, because it would be a wonderful ASAT system. In other words, we have got sensors and we have got orbiting rocket pods. All we would have to do is point those rockets at Soviet satellites and we could in effect blind the Soviet system. Both the Soviet Union and the United States depend upon satellites for all kinds of information—for battle management, of course, for intelligence, as well as for such mundane things as the weather. And an SDI system would be able to shoot those down.

Well, now, is that a good thing? Well, Mr. President, I submit it is not a good thing because it is destabilizing; because the Soviet Union would know we had the ability to blind them at any moment and therefore they would be tempted to make a first strike on us before we put the first strike on them. In other words, the slightest aberration in the world of politics, any crisis that came up, the Soviets would immediately go into a huddle and say, "Look, is this going to develop into a real crisis? If so, we better push our nuclear button now."

The whole question, Mr. President, in my view, of arms control is really a question of crisis management. Nobody thinks, or very few people think, that it is even conceivable that the President or the Pentagon would get together and say, "Let's push the button right here on this beautiful Wednesday morning and obliterate the Soviet Union and get rid of that threat." Nobody thinks that, including the Soviet Union.

Conversely, we are not worried about that for the Soviet Union. We are not worried about Gorbachev and his people saying, "Let's do it now."

What we are worried about, and both sides worry about, is the development of a crisis, a Cuban missile crisis, for example, where the chances of war, according to Kennedy, were about one in two, I believe is the figure that they used. I mean the idea, if that were true, that we had a one-in-two chance of obliterating the world or a good portion of it in 1960 is mind-boggling. We had only a fraction of the nuclear weapons at that time as we have now. We probably have 50 times as many now as we did then. But the crisis, the possibility of a crisis developing into the kind of situation

where either side is thinking about pushing that button, is still there.

Just in today's paper, they reported an event which happened yesterday in which the distinguished Senator from Georgia and the distinguished Senator from Virginia were able to finally get a crisis management center jointly manned by Soviets and Americans so that in this time of crisis they can trade information, because of bad information being the real enemy of stability in times of a crisis.

Now the ability of either side suddenly and without warning to decapitate the other side with respect to information by doing away with our satellites is destabilizing, because there is no time to talk, there is no time to do anything. You have to "shoot 'em or lose 'em." In other words, you are going to lose all your rockets, you are going to lose your ability to see unless you shoot them now. And at the time of a crisis, that is a very great danger.

So SDI is first useful as an ASAT system to blind the other side. Second, it is useful as an offensive weapons system because it would be good against what we call the ragged response, maybe not against the first strike.

What I mean by that is this. Mr. President, if we fire off, say, 5,000 warheads at the Soviet Union as a first strike and take out as many of their rockets and their bombers and their military installations and all the rest as we can, then there will be some remnants of the Soviet nuclear force which could be fired at us. Submarine-launched ballistic missiles come to mind immediately. There is no way, probably, we could take those out. So here comes a second strike or response from the Soviet Union.

For that purpose the strategic defense initiative would be very useful.

Mr. President, The Congressional Research Service at my request prepared a report called "Project Defender," which I believe deserves the attention of my colleagues. This 24-page document is a description of a classified research and development effort undertaken by the DOD from 1958 to 1968 on ballistic missile defense technologies. A subset of that general research was Project BAMBI which explored the use of satellite-based interceptor rockets to destroy enemy ICBM's in their boost phase.

The reports compiled in that research effort are so old, Mr. President, that they have been declassified. Now why is this research important today? Why is this report, a descriptive summary of research undertaken a quarter century ago, worthy of my colleagues' attention?

Mr. President, the entire defense authorization bill is held up because the administration wants to be free to adopt their so-called broad interpretation of the ABM Treaty to accelerate testing and development of the strategic defense initiative in pursuit of an early deployment. The essence of that reinterpretation is that exotic ballistic missile defense systems, those "based on other physical principles," may be tested and developed even if those systems would be based in space.

In contrast, under the traditional interpretation the testing and development of space-based ballistic missile defense systems are prohibited.

The crucial question becomes, what is an exotic system, because the so-called "broad interpretation of the ABM Treaty broadens the permissible testing and development only for exotic systems. Well, laser weapons are generally considered exotic, but they won't be ready in time for an early SDI deployment in the mid-1990's. The SDIO admits that.

The only defensive weapons system SDI has proposed for deployment in space in an early SDI deployment to destroy Soviet ICBM's in their boost phase where they are most vulnerable is the space-based kinetic kill vehicle or SBKKV. The term "SBKKV" is fancy terminology for a guided missile that would collide at high speed with the Soviet ICBM. These guided missiles would be based by the thousands on satellites orbiting the Earth. The fact of the matter is, Mr. President, if SBKKV is not exotic then neither the narrow nor the broad interpretation of the ABM Treaty permits it to be tested and developed. And without SBKKV, early SDI deployment is dead in the water. In short, if SBKKV is not exotic, then this contentious fight over the broad interpretation of the ABM Treaty is, for all practical purposes, a useless bloody exercise.

I began to think SBKKV was less than exotic several months ago when I obtained a 1,000-page report entitled, "A Review of Project Defender for the Director of Defense Research Engineering," dated July, 1960. That 27-year-old report included a picture of an SBKKV that was a dead ringer for the model of the SBKKV that General Abrahamson, the SDIO Director, was exhibiting at hearings this year.

Richard Perle, former DOD Assistant Secretary, told the House Armed Services Committee on March 13, 1987, that SBKKV are exotic because they collide with their targets rather than destroying them with a fused warhead. However, the interceptor rockets being researched in Project BAMBI 25 years ago were also so-called kinetic kill weapons.

Mr. Perle suggested SBKKV are exotic because they will have an infrared guidance system rather than being guided by radar. But the systems being investigated a quarter century ago were also intended to be guided by an infrared guidance system.

Then on May 19, 1987, Secretary Weinberger told the Defense Appropriations Subcommittee that this 25-year-old research was "simply a program on paper." In other words, we never got far enough in the technology on SBKKV back then to conclude that SBKKV is not exotic.

This Congressional Research Service report on Project Defender proves that the technology for SBKKV had proceeded much further than mere paper studies long before the ABM Treaty was signed. This CRS report shows that SBKKV vehicles were designed, built, and even tested under simulated space conditions in the early 1960's.

As for kinetic kill weapons the report indicates that well before the ABM Treaty we actually intercepted real missile warheads at White Sands using small rocket interceptors launched from an aircraft. So there is nothing exotic about killing a missile warhead with a kinetic kill vehicle.

Interestingly enough, Mr. President, the administration has not officially concluded that SBKKV is exotic. They admitted that in their May 19 report to Congress on the ABM Treaty. In other words, we do not know that adoption of the broad interpretation of the ABM Treaty will permit the testing and development of SBKKV.

One can understand the difficulty of asserting that SBKKV is an exotic technology given the thousands of pages of research and test results on SBKKV dating back to 1958 that are stored in Government vaults.

I commend this CRS report to my colleagues and I thank the authors of the report, Charles Gellner, senior specialist in international affairs, and Terri Lehto, for their efforts here in retrieving a valuable historical record.

Mr. NUNN. Mr. President, I ask unanimous consent that we might have an additional 2 minutes before the previous order is implemented.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WARNER. I join in that request for purposes of acknowledging my appreciation to the Senator from Louisiana for his thoughtful statements on the work done by the Senator on nuclear risk reduction efforts. I understand the Senator from Georgia has a statement which, after stated, I will indicate my concurrence with.

The PRESIDING OFFICER. The Senator from Georgia.

Mr. NUNN. I want to thank the Senator from Louisiana for his remarks. I want to commend him for doing an exhaustive and very detailed study of the strategic defense initiative and for enlightening the Senate on the facts about that, including the kinetic kill vehicle; including, I think, the very strong case that broad versus narrow definitions of the treaty do not really have a bearing at all on whether they

are going to be able to test the kinetic kill vehicle that they have in mind.

The Senator has done tremendous work. The Senator from Wisconsin has joined him. I commend the Senator and his capable staff.

Mr. JOHNSTON. I thank the Senator from Georgia very much.

Mr. NUNN. I believe this has been cleared by the Senator from Virginia and the other side. I would like to request amendment 681, the Byrd-Nunn amendment adopted last night, be separated from the underlying Glenn amendment which is amendment 680 and treated as if it had been enacted as a first-degree amendment to be inserted in the bill at the appropriate place.

Mr. WARNER. Mr. President, I earlier indicated my concurrence. Indeed, that is the case. I have now just been notified by the minority leader that at this time on his behalf I am to interpose an objection.

I express my apologies to the chairman. I have just at this moment been informed. Certainly it reflects what my understanding was of the agreement that we reached last night.

The PRESIDING OFFICER. Objection is heard.

Mr. NUNN. I thank the Senator from Virginia for making that clear.

Perhaps we can work it our later on in the day, because this is an accommodation to the Senator from Ohio.

Mr. President, if there is any remaining time of the 2 minutes, I would waive that back and ask that the previous order be completed.

RECESS UNTIL 2:15 P.M.

The PRESIDING OFFICER. The Senator has yielded back any remaining time. Under the previous order, the Senate will now stand in recess until the hour of 2:15 p.m.

There being no objection, the Senate, at 12:33 p.m., recessed until 2:15 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer (Mr. EXON).

NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEARS 1988 AND 1989

The Senate continued with the consideration of the bill.

Mr. McCAIN addressed the Chair.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. McCAIN. Mr. President, I rise to discuss the pending amendment and the entire scenario which has existed these last couple of days. I have been paying careful attention to the debate on this very important issue. I would like to spend a few moments, with the indulgence of this body, to review a little bit the factors which I think have led us to the situation we are in today.

I think it is important to note, Mr. President, that this is the first time in history that we have ever had a Department of Defense authorization bill in this Senate held up for the length of time that it has been held up, some 5 months. We continue to fail to address some very important amendments, of which there are many which must be addressed before this body can approve of the authorization bill for the very important and most critical function of spending for this Nation and its vital national interests throughout the world.

Why has this legislation been held up for the length of time that it has been? I think the answer to that is obvious to those who have been following the course of actions that have taken place concerning this legislation. It all has to do with one single amendment, the so-called Nunn-Levin amendment, which we all know dramatically circumscribes the President's authority to conduct what he feels is important testing of the SDI.

I think it is important to recognize the depth of feeling on this side for a variety of reasons, including a basic and fundamental one. That is that there is no place on the authorization bill appropriate for this kind of an amendment. There are, indeed, other vehicles.

As my distinguished colleague from Louisiana mentioned earlier today, this will probably be part of an appropriations bill which will probably be voted on one way or another as well.

Instead, we find ourselves locked in sometimes acrimonious dispute over this particular amendment, not only as far as the basic thrust of the amendment is concerned, but the nonapplicability of this amendment as part of the defense authorization bill.

I regret it frankly, Mr. President. I have a couple of amendments to offer that I think are important to this bill. I regret that we have been unable to give the men and women who serve in the military of the United States the assurance as to how they will be taken care of in issues ranging from a pay raise to the kinds of equipment with which they will be supplied to defend this Nation's vital national security interests throughout the world.

I again would appeal to my friends on the other side of the aisle to set aside this amendment. Let us get about the important aspects of the defense authorization bill, address those issues, and get this bill passed.

Presently we all know that if this authorization bill reaches the President's desk with the Nunn-Levin amendment contained therein, it will surely be vetoed. So when charges of obstructionism are leveled at this side of the aisle, I think there is no greater testimony to the tactic of obstructionism than that of approving a bill that is sure to be vetoed, not vetoed because of 98 percent of the bill which has been agreed upon in a rare degree of unanimity on the Armed Services Committee but because of one single amendment.

So I think, Mr. President, that it would serve the interests of the body, but more importantly the country, if we dispensed with the so-called Nunn-Levin amendment and went on with the rest of this bill. It obviously appears as if we are not. It obviously appears as if this body will be spending very long and perhaps late hours debating this single amendment and disregarding, unfortunately and unintentionally, the rest of the authorization bill, which inevitably will lead to a lack of attention to certain amendments and certain aspects of the bill which I believe deserve the attention of this body. Of course, the Nunn-Levin amendment circumscribes the authority of the President to conduct testing of SDI.

I think it might be in the interest of this body again to review the strategic defense initiative and what it is all about and the contribution it has already made in the opinion of many to this Nation's security. I think there is one basic fact that is well worth recognizing and appreciating—and I think it is appreciated by the overwhelming majority of informed opinion on arms control issues. It was the strategic defense initiative which brought the Soviet Union to the bargaining table and is leading us to the threshold of a landmark agreement which will for the first time in the history of arms control negotiations do away with an entire generation of nuclear weapons.

That is a major and singular contribution that the strategic defense initiative has made, and in my opinion renders it of enormous value as a program and an initiative, the benefits of which have already far outweighed its costs.

It was interesting to hear my distinguished friend, the chairman of the Armed Services Committee, say that he had offered to the administration he would withhold debate of this amendment as long as Mr. Shevardnadze was in Washington negotiating with Secretary Shultz over the possibility—we hope probability—of a summit meeting between Mr. Gorbachev and President Reagan.

If that is the logic my distinguished friend and chairman of the Armed Services Committee is using, then it would be far more profitable for this amendment to be dropped until such time as the summit meeting is complete, because I think it is very clear that SDI will play a role in the negotiations at the summit, which we hope will take place within the next couple months. I hope that a couple months delay would not impair the ability of my friend and colleague from Georgia to impose his will and that of what appears to be the majority in this body that the authority of the President on

testing SDI be circumscribed as is described in his amendment, or to more accurately describe the amendment until such time as there is a positive vote of both bodies.

I think it is also very important to point out that the strategic defense initiative is for the first time in the history of nuclear weapons a chance to erect a defensive barrier rather than a continued buildup of offensive nuclear weapons which for all intents and purposes has continued unabated since the detonation of the first nuclear weapon at Hiroshima and Nagasaki in 1945.

There are a number of arguments concerning the strategic defense initiative, and I will not review them all; it is the subject of another debate. But I think it is abundantly clear to most Americans, and the reason why there is overwhelming support amongst the American people for the strategic defense initiative, that it gives us an opportunity to erect a defensive shield in space as opposed to the continued buildup of offensive nuclear weapons on the ground, in some cases outside Tucson, AZ, and other parts of the State of Arizona.

Will the strategic defense initiative work? I certainly, Mr. President, do not have the scientific knowledge and talent to make that judgment, nor do I believe, many people in this country. But to reject out of hand the possibility of not an impenetrable shield, but a sufficient defensive system which would place sufficient uncertainty in the minds of the Soviet war planners about the success of a first-launch strike, I think is wrong. Obviously, it is not achievable without sufficient expenditure of time, money, and effort on the part of the scientific community in this country. But it appears to me that if the Nunn-Levin amendment is, indeed, adopted, we will be precluded for all intents and purposes from finding out if there is a viable SDI system that can be built at a reasonable cost in a reasonable length of time, because we are all aware that any weapons system sooner or later arrives at a point where it must be tested. Research and development, work in the laboratory is an important, crucial, fundamental aspect of any weapons system but sooner or later we have to test.

Given my experience in the other body, which was only 4 years, it is highly unlikely that the body would approve the kind of testing necessary for SDI to become a reality, or even parts of SDI, which leads me to another aspect of this amendment that is exceedingly disturbing to me.

As a Member of the Senate, I cherish the differences between the Senate and the House. In fact, I am deeply grateful that I have the opportunity to speak at length on this issue on the floor of the Senate as opposed to the extremely restricted debate due to the number of Members in the other body.

But I am loath to give up the constitutionally mandated obligation of the Senate, and that is to ratify treaties, to provide advice and consent. We can certainly go into a later time the extent of the advice and consent which is constitutionally mandated. I believe my colleague from Indiana pointed out that the early Members of this body, many of whom were parties to the Constitution of the United States, had a different view of the meaning of advice and consent. But I do not think in their wildest imagination the Framers of the Constitution contemplated a treaty-making role for the House of Representatives as would now be consigned to it by the Nunn-Levin amendment. The Nunn-Levin amendment clearly states that unless there is a vote of approval by both Houses, then the President will be prevented from further testing of SDI. Not only is that unlikely from a practical standpoint, given the makeup of that body, but, most importantly, it is a clear abrogation of the rights and responsibilities of the Senate. I hope that in their deliberations my colleagues will take that into careful consideration.

On the subject of negotiations, it has been a long, hard road for this administration to reach the brink of a significant arms control agreement. It is not this Senator's opinion that this amendment will be a severe handicap in our negotiations. That is the opinion of the negotiators. The negotiators themselves appeared at a hearing of the Senate Armed Services Committee and stated that the passage of this amendment will impair the ability of our negotiators to arrive at a meaningful arms control agreement in Geneva.

And by the way, I did not need, nor did the committee I hope need, that information from those negotiators because common sense dictates that because that is what the Soviets have been seeking for years and years and years ever since SDI became a possibility.

It seems almost incomprehensible that this body would give away to the Soviet Union something that they have been unable to achieve at the bargaining table. In fact, in an act of great political courage, perhaps one of the most courageous acts, was the reason why the Reykjavik negotiations foundered because our President refused to sacrifice SDI on the altar of promised arms control agreements.

Mr. President, I am not one who would never negotiate away SDI. I think I could draw a scenario at some time in history of negotiations where there would be significant, meaningful, and indeed draconian reductions in offensive nuclear weapons, that at that time it would be entirely appropriate for the strategic defense initiative to be part of that tradeoff. But I certainly would suggest that at this time in these negotiations not only is it an inappropriate time, it could be incredibly damaging to the ability of our President and our negotiators to reach that point in the negotiations.

I think, Mr. President, that as we continue this debate it would be very important for us to try to remember why this legislation is before us. This legislation is before us so we can provide the equipment, the pay, the material, and all the requirements for the Armed Forces to take care of the United States' vital national security interests throughout the world. It is not—it is not, I repeat—a vehicle for various arms control provisions so that we can carry out some kind of, or impose some kind of arms control negotiations on the President of the United States and his negotiators. I think it is important when we discuss this amendment to know what we are talking about. We are talking about the strategic defense initiative, the funding for which when we look at the overall funding for defense is rather small. It has been significantly reduced over the last few years from the President's requests. And yet many Americans believe, and I think accurately, that this SDI provides an opportunity to end the unending and tragic arms race in which we have been involved with our adversaries since 1945.

Mr. DIXON. Would my friend yield for a brief question?

Mr. McCAIN. I am more than happy to yield to my friend and distinguished colleague from Illinois, a man very dynamic and knowledgable on this issue, and one who has spent a great deal of time and effort on this subject. And I am sure I will be more than illuminated to hear from him.

Mr. DIXON. May I say to my friend that what I hear, and what he says about the funding for the SDI Program, is that it has not grown as much as the President requested. That the Senator would concede. But would my friend from Arizona, who happens to be a member of my Subcommittee on Readiness, Sustainability and Support, and has seen what has happened to the preparedness and readiness programs and how they have dwindled over the years, concede that the 22-percent growth that we gave over last year for SDI in our Armed Services Committee is considerably more formidable than what even he would expect to obtain, either from this body or the Congress as a whole?

Mr. McCAIN. I suggest that the point of the Senator from Illinois is very well made. But it all depends on the matter of priorities. If the Senator feels, as many of us do, and obviously the administration does, that a viable SDI Program can lead to significant

reductions in expenditures in other areas, such as the never-ending new generations of offensive nuclear weapons over time, then many feel that it is an investment well made.

I would also, before I yield again to my friend from Illinois, like to say I share his deep concern and his commitment to the readiness and preparedness of the Armed Forces of the United States. I also share his view that we are in danger now for the first time since the late seventies of leaving the men and women who man the Armed Forces of the United States unprepared for the defense of this Nation's vital national security interests.

I would be glad to yield back to my friend.

Mr. DIXON. May I only say, and I hesitate to interrupt the remarks of a dear and respected friend like the Senator from Arizona, but I know about his concerns in the same area where I have concerns. The fact is that all of those charts on ammunition, charts on depot, real property maintenance, all those things, spare parts, show us getting back down in 1991 to about where we were in 1981 at the beginning of the Reagan administration. All those things say to me that we have profound problems everywhere from a fiscal standpoint and a financial standpoint.

I only wanted to say that while I have the highest personal regard for my colleague from Arizona, and believe in a lot of what he is saying about the strategic defense initiative, yet I say to him given the priority problems that we had in that committee to give a 22-percent growth in SDI, while either cut or held at the same level, and on the whole bill itself permitted only growth at zero percent inflationary experience, I think no one can complain about how we treated the Strategic Defense Initiative Program.

So when this Senator comes back, may I say to my friend, and it says on page 23 all we are doing is exercising the power of the purse, having treated this program pretty generously, I at least think by comparative analysis there is a value in what the Senator says.

I thank the Senator for letting me interrupt.

Mr. McCAIN. I thank my friend from Illinois for that important statement and to a large degree I share his view. And I share his deep concern that we have made significant reductions in cooperation with the Defense Department, I might add, that place us at some risk. I would also like to repeat my point, and that is that when we look at the amount of money we have spent on strategic weapons systems—and I am not just talking about missiles, I am talking about submarines, I am talking about multi-billion-dollar pieces of equipment—if we can achieve a viable strategic defense initiative, the requirement for those enormously expensive strategic systems will go down. And therefore I believe we can spend more money in the areas which are so vital to maintaining our defense posture, and those are the "non-sexy items" such as bombs, bullets, pay, uniforms, gasoline, and spare parts.

So I think the point of my friend from Illinois is well made. But I also would like to point out that we also have the long-term view that we must take which many of us share; that is, if this program is successful, it can in the long term reduce the requirement for what has been a substantial part of the defense budget over many, many years. My recollection is somewhere around 30 percent of the defense budget has been devoted to strategic weaponry.

My goal is to see SDI become a reality which would then reduce dramatically or even eliminate the requirement for offensive strategic weapons.

Mr. President, I hope that we will continue this debate. I think it has been illuminating to many of our colleagues. I think it is an important issue.

I hope that in retrospect we might examine how we got to where we are today with the 5-month delay, and all of us around here at 11 o'clock last night with sometimes acrimonious debate, and recognize that the best way to avoid a repetition of this in the future is if we would leave arms control amendments off the defense authorization bill.

There are many vehicles for these kinds of amendments. We will see other vehicles used for these kind of amendments. But this Nation's defense is not the place to play around with the kind of argument and debate which we have been in which has precluded us from addressing the important aspects of this bill and which has precluded us from taking up some very important amendments to this bill which will be offered by many of my colleagues.

I also would like to finally say I understand how difficult this has been for my friend and chairman of the committee who has been through some very difficult times. I respect his opinion on this issue as I do many others. He has a degree of expertise behind him in this country, much less this body but on this issue I respectfully disagree and hope in the future we can continue to agree as we do on about 99 percent of the other issues regarding national defense.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. DIXON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DIXON. Mr. President, in view of the fact that my distinguished friend, Senator McCAIN, who apparently now will be managed on that side—at least for a brief period—has placed a quorum call in operation, I wonder if I could have unanimous consent to discuss a slightly related matter, but a matter that does not pertain to this amendment, for perhaps 4 or 5 minutes, while we wait for the next person on his side to come to the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

RESIGNATION OF RICHARD GODWIN

Mr. DIXON. Mr. President, last Friday, on the floor of the Senate, I expressed concern about an article I had read in a defense newspaper concerning Under Secretary Godwin of the Department of Defense. On Monday, I read a front-page article in the Washington Post about Under Secretary of Defense Godwin's pending resignation.

I am profoundly concerned about what I believe the situation is with respect to that position in the Department of Defense, because the resignation of Mr. Godwin, the Under Secretary of Defense for Acquisition, has occurred. The chairman of the committee, Senator NUNN, and the chairman of the jurisdictional subcommittee, Senator BINGAMAN, have scheduled a hearing on the question of how the Department of Defense, and specifically the Secretary of Defense and the Deputy Secretary of Defense, are ignoring the plain directions of the Department of Defense reorganization bill and the 1987 defense authorization bill that we passed last year.

My friend on the floor remembers that I was the sponsor of the amendment to the DOD reorganization bill that set up the Under Secretary of Defense for Acquisition, pursuant to the Packard Commission report. I can say that I was at every subcommittee hearing where that matter was discussed. I was at every committee hearing of the Armed Services Committee where that subject was discussed. I was on the floor of the Senate when the DOD reorganization bill was debated and that subject was discussed.

Throughout every proceeding pertaining to that legislation, it was agreed, I think, by everyone that we were creating a czar, a procurement czar, an acquisition czar, for the Department of Defense who would be the one, single person who would make those finite determinations about acquisition and procurement policy in the Department of Defense.

There is $185 billion—that is no small change—spent on military procurement. We have all the services competing with one another. The system is in place that has always been in place: the duplication, the waste, the mismanagement, and I regret to say even sometimes the fraud, that flourished in this country, through all administrations, for decades.

Here was a man who is trying to do something about it. I never will forget, after the reorganization bill became law—Senator Goldwater and Senator NUNN did a tremendous job on that bill—I remember going to breakfast with Secretary Godwin after his nomination had been confirmed. Senator LEVIN, as I recall, was there, as well as Senator BINGAMAN.

We said: "We really mean this; Congress really means this. We really want to give a free hand to you to be the acquisitions czar in the Department of Defense. We will back you. We will give you all the support you need."

Everything has been downhill since that wonderful morning at that breakfast, because he has not had the support, or cooperation from his friend the Secretary of Defense. The Secretary of Defense, the Deputy Secretary have done everything in the world to avoid the law. After everybody gave all their tributes to Mr. Packard and the Packard Commission, none of that is meaningful. It is all forgotten. The same old system is in place: business as usual, every man for himself, everything duplicated, get what you want.

I think it is a tragedy. I am surprised that the great national media, which sometimes can be concerned about small matters, has been so unconcerned about what I consider to be a really big matter taking place in the Defense Department right now which will lead to substantial continued abuses in that system.

It is a tragedy, and I hope more Members on both sides will ultimately be concerned about it and raise their voices against what is obviously occurring and say: "Look, the Packard Commission was right. We meant what we said in the DOD reorganization bill. We really want one czar in charge of all procurement and acquisition controlling what happens with American defense dollars."

As I stand here on the floor, proud of my friendship with the distinguished Senator from Arizona, who had a great and distinguished career in the military service, I think of the genuine heroes in America like him who have given so much for their country while many people in the present system are trying to figure out a way not to follow the law of the land.

All we were trying to do in that bill, with that particular provision, was to see to it that for the buck we spent we got a buck worth of bang to defend the United States of America.

I think it is a shame that there is not more understanding in the Department of Defense of the clear intention, positively expressed, of Congress when the DOD reorganization bill was passed.

Incidentally, I do not know that much about Under Secretary Godwin personally. I have met him and like him. I am an old trial lawyer. We always used to try the other guy in a lawsuit, and I understand that individuals in the Department of Defense and others are saying it was the problem of the individual, not the system. I will guarantee that it does not matter who we confirmed for that job. He would have the same problem, in my view, that Under Secretary Godwin has had.

I send word to the Pentagon that, so far as I am concerned, I meant what I said when we passed that bill, and the law means what it says. I think that like-minded people such as myself, on both sides, will ultimately try to see that there is a correction made soon in the policies of the Department of Defense with respect to the position of the Under Secretary of Defense for Acquisition.

Mr. McCAIN. Mr. President, will the Senator yield?

Mr. DIXON. I yield.

The PRESIDING OFFICER. The Senator yields the floor. The Senator from Arizona [Mr. MCCAIN] is recognized.

Mr. McCAIN. Mr. President, I ask unanimous consent that I may address the issue that my distinguished friend and colleague from Illinois previously addressed.

The PRESIDING OFFICER. The Senator is recognized.

Mr. McCAIN. Mr. President, I appreciate the remarks made by my friend from Illinois and I would repeat again, as I am sure I will many times in the future, I do not know of a Senator here who has dedicated more of his time and effort to the preparedness and the capabilities of this Nation's Defense Establishment than my friend from Illinois. He has done a super job and I appreciate the opportunity of serving with him on not only the committee but the subcommittee which he so ably chairs.

I agree to a large degree with the remarks that my colleague just made.

Let me point out a little caution here because before we rush to judge the events that took place, I think it is important that we see if there is another side to the argument. I would direct the attention of my colleagues to an editorial that was in the Washington Post this morning, and I ask unanimous consent that it be printed in the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

EMPTY OFFICE AT DEFENSE

Richard Godwin has resigned as Pentagon weapons czar, saying he wasn't given the backing he needed to bring sweet reason to the acquisition process, the job for which he was hired a year ago. The depressing likelihood is that too much will be made out of the resignation on all sides. Those who continue to think the answers to the Pentagon's procurement problems lie in its table of organization will say, with reason, that his throat was cut by the very networks his job was created to supplant. The opposing school will say, perhaps also rightly, that the main fault lay not with the system but with him—that the former Bechtel Group executive, too used to having his own way, lacked the finesse this job required.

The real problem lay in relying on a reorganization plan to achieve a substantive result. We never learn. The vast and complex weapons acquisition process will never be efficient; we put too many conflicting demands on it. Its shifting foundation is the Threat, which continually changes with perceptions. Huge theological disputes develop about which threats are the most serious, what weapons should be built to meet them, how many different roles should be grafted onto each weapon.

These half-metaphysical, half earthy inter- and intra-service debates are complicated by the lack of any fully realistic way to test most of the doctrines and weapons. Most of them are built precisely so that they will never *have* to be used. The system is riddled with both conflicts of interest and adversarial relationships; careers and profits both depend on it. Atop all these are what might be called managerial questions. In developing a weapon—always in part a reach into the unknown—do you try to move as fast as you can, or as cautiously? Where do you come out in the daily trade-offs between sophistication and simplicity? Would you rather run a few production lines at optimum rates or a lot of lines at once but inefficiently?

The alluring idea of reorganization is that if only you could centralize this welter of decisions, you could achieve greater order. But that is an illusion. First, there is no agreement on what greater order consists of; if there were, the disorder would likely not exist. Some critics define reform as stripping weapons of gold plate, but others see it as hauling the auditors out of the defense plants and stripping the process of red tape.

Second, and more important, these decisions are in a sense already centralized—in the defense secretary. They are policy decisions, perhaps the most important the secretary is called upon to make. He cannot delegate them. The secretary has no shortage of subordinates now—the deputy secretary, the service secretaries. He can tell them what to do, just as readily as he can tell an undersecretary for acquisition to tell them what to do. Reorganization is always among the answers when a problem arises in government. But reorganization cannot paper over substantive differences; nor is it a substitute for will.

Mr. McCAIN. The editorial is entitled "Empty Office at Defense." It starts out:

Richard Godwin has resigned as Pentagon weapons czar, saying he wasn't given the backing he needed—

Et cetera.

It goes on to say:

Those who continue to think the answers to the Pentagon's procurement problems lie in its table of organization will say, with reason, that his throat was cut by the very networks his job was created to supplant. The opposing school will say, perhaps also rightly, that the main fault lay not with the system but with him—that the former Bechtel Group executive, too used to having his own way, lacked the finesse this job required.

Mr. President, I do not know which of those statements is correct because I, although familiar with the series of events that have taken place, obviously am not privy to the events that have taken place that led to Mr. Godwin's resignation.

I believe, though, there are two sides to this story, and I would hope that one of the hearings that our committee could have in the near future would have Mr. Godwin as one of the witnesses and perhaps have someone from the Pentagon, Secretary Weinberger, if necessary, to present evidence not for the purposes of either violating or vindicating Mr. Godwin, because let us face it he has resigned and that chapter is over, but perhaps to carryout, to achieve the goal which my esteemed friend and colleague from Illinois so greatly desires as do I which is the implementation of the Defense Reorganization Act which clearly has failed to a large degree to this point.

Whether that is due to personalities, whether it is due to the bureaucratic resistance, which we are all aware can be very intense, I do not know. But I believe that one of the services we can provide to the American people is to hold a hearing, and I know that my friend from Illinois would probably be very interested in that kind of a hearing so that we can inform the American people not only what happened but how we can prevent recurrence in the future.

Would my friend from Illinois like for me to yield to him?

Mr. DIXON. I only say and I thank my colleague from Arizona, I join him in saying that the best thing we can do is have some hearings on this. I am delighted to indicate to my friend from Arizona that there will be a hearing next Tuesday, I understand that Under Secretary Godwin has been invited, that the Secretary of Defense and the Deputy Secretary can present their views if they desire.

The only point I wanted to make here was I am just amazed at the lack of interest in the matter that I think is of fundamental importance, quite frankly, and central to the question of the Department of Defense reorganization bill that we passed. Last year everybody was saluting the flag and praising the Packard Commission report.

Now, I just suspect a lot of it is forgotten, and I regret that very much because I think there was a very strong intention upon many of us on both sides of the aisle of different political persuasions to really make this thing work.

Senator Barry Goldwater is down there in Arizona right down there today with or without a beard. I am sure Barry agrees with what I am saying here. I believe that great Senator, who was a great, great American leader, believes that we ought to do something about this.

Mr. McCAIN. I agree with my friend from Illinois.

If my distinguished predecessor, Senator Goldwater, were here, he would describe, in much more graphic terms than Senator DIXON and I can imagine, his displeasure, I am sure, at this turn of events.

I would also like to reiterate my agreement with my friend from Illinois. Perhaps the greatest problem in defense today is the perception, unfortunately to a large degree accurate, on the part of the American people that their defense dollars which are earmarked for defense are fraudulently or inefficiently wasted and abused. All too often we hear the story of a $200 hammer and a $400 toilet seat which in the words of my friend from Maine gave new meaning to the word "throne." All those horror stories we heard about in the weapons acquisition process.

Here we are in the situation where the post that was created to address this problem in large part is now being vacated under less than pleasant circumstances and it does generate so very little attention.

I would suggest to my friend from Illinois that one of the answers here, unfortunately, is that the issue is so complex, the question of acquiring a viable weapons system and taking it from the drawing board and getting it in operation is so enormously difficult that it is impossible to grasp, that we seem to focus on the simplistic aspects of it and not on the more difficult and complex aspects of weapons acquisition, which is exactly the job that Mr. Godwin held.

So I also would suggest that until we get full attention to this issue, we will not be able to cure the problem, and perhaps the hearing which we are now assured will take place will not only bring attention to this specific incident but perhaps give us better understanding as to how we can address the most formidable issue of defense acquisition.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. LEVIN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator is recognized.

Mr. LEVIN. Mr. President, the fundamental issue involved in section 233 of the committee bill is whether Congress will have a say in how SDI dollars are going to be spent. The issue is not which interpretation of the ABM Treaty is correct. Section 233 does not legislate any particular interpretation of the ABM Treaty. It does not express the sense of the Senate even that the traditional interpretation is the legally correct one.

Nothing in section 233 prohibits the President from stating that he believes the broad interpretation is legally justified as he has already done. He can continue to do so.

The President presumably in the future will decide whether or not he wishes to apply a new broad interpretation to the ABM Treaty.

What this language in the committee bill does is to preserve a congressional role in the expenditure of billions of dollars that we are authorizing for SDI.

The committee report perhaps states it as well as anyone.

The report reads:

The decision to authorize expenditure of funds for the Armed Forces is one of the most significant constitutional responsibilities assigned to the Congress. The strategic defense initiative is one of the most controversial and costly programs ever to be presented to the Congress. Without prejuding the wisdom and desirability of undertaking testing, development and deployment of mobile space-based ABM's using exotic technologies, it is imperative that Congress in general and this committee in particular examine in detail any proposed expenditures that would involve such a substantial change in policy.

That is what the committee report in support of section 233 provides, and I believe that Senator WARNER, on May 13, stated it accurately when he said, in response to a Senator who was stating that the committee report adopted the narrow interpretation, the following:

The authors of the amendment

That is myself and Senator NUNN—

Have tried very carefully to point out that we did not do that. We indirectly may have framed the debate for that, but in a sense all we did was to put in a technical restriction on the expenditure of funds thereby limiting the President's option at some future time if he so desired to make a shift in the direction of the program.

Mr. President, if we delete this language, we will be allowing the executive to decide unilaterally how to spend these SDI billions. Many of us, indeed, I believe most of us, want to exercise the responsibility which the

Constitution places upon us to decide how money is spent, not just how much money is spent.

The bottom line is this: Section 233 preserves a congressional role without prejudging how we will exercise it. If we delete the language, we will be abdicating the responsibility which the Constitution places upon us to control the expenditure of funds pursuant to the Constitution and laws and treaties of the United States.

Will the President later on say that he wants to apply a broad interpretation of the ABM Treaty? We do not know yet. But what we do know is this: The narrow interpretation has been in effect since the ABM Treaty was explained to the Senate in 1972 and ratified by the Senate at that time.

There were many exchanges during the committee proceedings at the time of ratification which made it clear that the development and testing of mobile, including space-based, ABM systems or components were prohibited. That interpretation carried right through 1985. The arms control impact statement, for instance, in 1985, an impact statement written by this administration, provided that—

> The ABM Treaty prohibition on the development, testing, and deployment of space-based ABM systems or components for such systems applies to directed energy technologies or any other technologies used for this purpose.

Mr. President, we also should note, in terms of the importance of this issue and the importance of Congress maintaining a role in the expenditure of funds relative to the ABM system, that six former Secretaries of Defense in March of 1987 wrote that:

> We believe that the United States and the Soviet Union should continue to adhere to the traditional interpretation of article V of the ABM Treaty.

So we are talking about an interpretation which carried forward at least to 1985, the so-called traditional, or the narrow, interpretation of the ABM Treaty. And now some say that despite that record, which is that important and significant, that we should now give the President the untrammeled right to move to a new interpretation or not as he sees fit.

Mr. QUAYLE. Will the Senator yield?

Mr. LEVIN. For a question, I would be happy to yield.

Mr. QUAYLE. For a question. In the Senator's judgment, which I value, and he is one of the most thoughtful Members of this Senate, I would like to ask him who does he believe has the constitutional responsibility to interpret the treaty after it is approved by the U.S. Senate by a two-thirds vote? Is it Congress, the Senate and the House by a majority vote, or is it the Commander in Chief, the President of the United States, that has the constitutional right to interpret the treaty?

Mr. LEVIN. The Congress is required to appropriate money pursuant to the Constitution of the United States. That includes the laws and the treaties of this country. We should not be appropriating money in a way which is unconstitutional. We have a right to be sure and to be confident and analyze and to think through what we are doing when we appropriate money.

And that is the issue. The issue here is not which interpretation is correct at this point. The issue here is if the President decides that he wants to spend money that we are appropriating pursuant to a new or a broad interpretation, that the Congress has a right, indeed, we think a duty, that it make sure that its appropriations comply with the law of the land. The law of the land includes the treaties.

So, my answer to the Senator—and he indeed is a thoughtful Senator—is that we have an obligation in the appropriations process to comply with the law of the land, which includes treaties. For instance, many of us when it came to dense pack in that appropriation, the MX dense pack, were very much concerned that it would violate a treaty—an unratified treaty, may I say, but a treaty which had been entered into by the United States.

Many of us had concerns that any money which goes to the Contras might violate the Rio Treaty. We seek defense money in order to make certain that our appropriations comply with the law of the land which includes treaties.

So I cannot give you an either/or answer. It is not that the President has the sole authority or that the Congress does. Each branch has its own duties. Our duty is to appropriate money. And we have the right and, indeed, I believe we have the obligation, to make sure our appropriations are compliant with the law.

Mr. QUAYLE. Let me just indulge my friend for one moment on a question. This is the thing I am trying to get before the Senate. I do not dispute the fact that the Congress of the United States, by a majority vote of the House and Senate, has the constitutional right, prerogative, to appropriate money for anything. You know, if they want to cut it off for MS, if they want to cut it off for revenue sharing, whatever it may be, they have a right to do that.

What I am trying to establish here and what I am trying to get is a direct answer. In the only Supreme Court case that I have been able to find on this point, the Fourteen Diamond Rings, which I am sure the Senator is familiar with, versus the United States. It says that, after the ratification, the power, the constitutional power of interpretation, rests with the President not the Congress. I am not talking about spending money.

You know, this amendment is predicated on article V of the ABM Treaty. It does not reference agreed statement D because those that propose the narrow interpretation of the ABM Treaty do not give much credence to agreed statement D.

But what I am trying to establish—and I think the Senator will agree with me—is that the constitutional responsibility, as adjudicated by the U.S. Supreme Court, in fact lies in the executive branch and the Commander in Chief. Obviously, if he interprets a certain treaty and asks for money, the Congress can tell him to go you know what and cut it off. Congress can tell him in polite terms, sometimes impolite terms, what to do.

But the fundamental point, and this is the thing that I ask my distinguished friend who is a very, very thoughtful and deliberate person—very precise, I might add—that I do not know how they can skirt the issue that the constitutional responsibility for interpretation rests with the executive branch. And that is the basis and that is the fundamental principle that drives this Senator and other Senators to speak long and hard on this issue.

I concede Congress' clear powers, and I believe political science 101 is clear on them as a matter of fact, and they teach them in the grade schools. It is even set out in our celebration—such as the power of the purse, the right to declare war. The power of the purse belongs right here and over there in the House. But not the power to interpret treaties once they are approved and become, as the Senator from Michigan says, the law of the land.

So I ask my friend once again: Is not the constitutional responsibility of interpretation of treaties, upon approval by the advice and consent of the Senate, with the President of the United States and the executive branch?

Mr. LEVIN. First of all, in terms of the Fourteen Diamond Rings case, that case stands, really, for the unremarkable proposition that a resolution which is approved by Congress cannot change the meaning of a prior law, including a treaty.

But let me now get to what your real point is——

Mr. QUAYLE. A resolution which is similar to the Levin-Nunn amendment. It is similar to the Levin-Nunn amendment.

Mr. LEVIN. We are not trying to change a treaty.

Mr. QUAYLE. Sure you are.

Mr. LEVIN. Let me try to answer your question.

Mr. QUAYLE. OK. You have the floor.

The PRESIDING OFFICER. The Senator from Michigan has the floor.

Mr. LEVIN. First of all, I am glad that my good friend from Indiana acknowledges that Congress controls the power of the purse.

Mr. QUAYLE. Never in dispute.

Mr. LEVIN. Also, I am glad my friend from Indiana would acknowledge that we can set restrictions on the expenditure of funds, we can fence the expenditure of funds. As a matter of fact, we have fenced the expenditure of funds and my friend from Indiana has voted for such fencing.

We have said that Congress will not allow you to spend these funds until you, for instance, come back to us with a report. We did that with the dense pack basing mode. We said you may not produce MX missiles until you come back and tell us about the survivability of a dense pack basing mode and what the other alternatives are.

We fenced the production money of MX missiles. Why did we do it? Many people did it for this reason—let me finish. Many people did it because they felt the dense pack basing mode violated a treaty, albeit an unratified one. When you look at the debates you will find that a number of people expressed the concern that dense pack would violate both SALT I and SALT II.

Now, it is clear to me in answer to your question—I am going to give you a direct answer—that the Congress need not appropriate money if it believes that appropriation will violate the law of the land. And, if it does not know whether or not the President is going to proceed in a certain direction or another in terms of his desire to spend money in one way or another, they may wait. Congress may wait.

It may fence the money and say, "Look, if you want to proceed in a certain way, you come back and you report to us and then we will decide whether or not we want to spend money in that way."

Why? Any number of reasons. We may decide we do not want to spend money in the way that the President now wants to spend money. We have a right to do that. That is our appropriation process. We have fenced the money in this language. There is no reason why we cannot build a fence around the expenditure of money. We do it regularly in the Congress.

We do not adopt any interpretation in this language. I have repeated that over and over again and I am kind of surprised that my good friend from Indiana doubts that because again I think even my friend from Virginia has acknowledged this. We have made it clear and the committee report makes it very clear that there is no intention here to prejudge the correctness of the narrow versus the broad interpretation. The background of this amendment is as follows: That since 1972 through 1985, the so-called narrow interpretation was followed by one administration after another—from President Nixon on, including the Reagan administration. And it is in their arms control impact statements.

All we are saying in this language is this: We do not know if you are going to move to a broad interpretation or a new interpretation, Mr. President. We do not know if you will or not. If you are, going to if you want to apply a new interpretation to the expenditure of these funds, you have to come back to us so that we can approve the expenditure of the funds. We may like the way you want to do it. We may not like the way you want to do it. But we want a role. We are not going to write you a blank check for $4.5 billion of SDI money, and then say you spend it under any interpretation you want, because there are some people who want a role in the expenditure of that money. That is all it says.

(Mr. WIRTH assumed the Chair.)

Mr. QUAYLE. Will the Senator yield?

Mr. LEVIN. Go ahead.

Mr. QUAYLE. I appreciate the Senator's indulgence. Let me just say a couple of things. First, an observation about comparing what you are doing with Levin-Nunn with what you did with dense packs or MX, there may have been some questions raised in debate, but I can tell you—I will go get the amendment, I don't have it—the amendment on dense pack and MX in no way referenced SALT II. In no way did it reference SALT II.

This amendment makes direct reference to article 5 of the ABM Treaty. That is a very big difference. Furthermore, as the Senator so properly points out, SALT II was unratified and therefore not the law of the land. The ABM Treaty has been ratified and is the law of the land.

But I can follow the Senator's logic and I can agree with him on a couple of points. Congress does have the power of the purse. But the Senator's resolution and the Senator's amendment is cutting off funding based upon an interpretation for a possible future action, a future action by the President of the United States.

So this is not saying we are going to deny you funds for the MX missile. You are denying them funds specifically for an interpretation of the ABM Treaty. And I have a very difficult time saying how this is not an interpretation of the amendment.

I mean, the very first paragraph:

Funds appropriated or otherwise made available to the Department of Defense during fiscal years 1988 and 1989 may not be obligated or expended to develop or test antiballistic missile systems or components which are sea based, air based, space based, or mobile land based.

That is almost identical language to that which is in article 5 of the ABM Treaty.

So I say to my friend from Michigan: Sure, I can follow you and agree with you that Congress has the right to cut off funds for certain ongoing programs. This is not an ongoing program. This is an interpretation of a treaty and what really makes matters worse, is that it invites the House of Representatives by majority vote to undo what the U.S. Senate could say was the interpretation of the treaty we are going to invite far more involvement on interpretation of treaties and other treaty matters from our friends over in the House.

Mr. LEVIN. Are you really suggesting that the House of Representatives has an obligation of appropriating funds which it believes violate the law of the land? Are you suggesting that treaties of this country are not binding on the House? Are you suggesting that when appropriating money the House does not have to consider the law of the land—including treaties which are part of the law of the land? Is that what your suggestion is?

Because I tell you I reject it. I think your problem really is not with this language, it is with the Constitution, which requires that appropriations of funds be by both Houses.

Mr. QUAYLE. I have absolutely no problem with that.

Mr. LEVIN. I think your other problem is that you do not consider treaties to be part of the law of the land.

Mr. QUAYLE. I certainly do.

Mr. LEVIN. Well, if you accept both of those, then the House in appropriating funds pursuant to the law of the land must consider treaties and has a right to. They are not interpreting treaties——

Mr. QUAYLE. Let me ask my friend this——

Mr. LEVIN. In any way other than in the appropriation of funds. And now let me read you the amendment on the MX basing mode.

None of the funds appropriated in this resolution may be obligated or expended to initiate full-scale engineering development of basing modes for the MX missile until such basing mode is approved by both Houses of Congress in a concurrent resolution.

And now let me read you from some of the debate.

Senator MITCHELL supporting this:

A third reason for stripping this resolution of MX missile production funding relates to the fact that the Dense Pack basing arrangement may violate the letter and spirit of the SALT I Agreement to which the United States is a party and the provisions of the SALT II Agreement which President Reagan is pledged to follow as long as the Soviets do likewise.

Let me read you another statement of Senator BYRD in this case, in terms

of supporting this restriction on MX production money.

The administration overlooks the fact that its Dense Pack proposal may reasonably be interpreted as a violation of the SALT II Treaty draft which the administration has said that it, and the Soviets, are both abiding by.

So there were many people in this debate who felt we should restrict those funds because they wanted money to be spent consistent with the law of the land. The law of the land includes treaties. That is the most direct answer I can give to my dear friend from Indiana, I may say, that the law of the land includes treaties and that when it comes to the appropriation of funds we should act pursuant to the Constitution.

Mr. QUAYLE. As I had said before, there are a number of things up to a certain point where I wholeheartedly agree with my friend from Michigan. I agree that the Congress has the power of the purse, to agree to condition or disapprove treaties. Furthermore, on this particular resolution, you are not denying money for a specific program for a specific test or development, because the administration has said, somewhat improperly, that they are not moving to the legally correct interpretation. So we are cutting off money based on a prospective, down the road, hypothetical situation that the President may not go to. There is not a specific program, so it is not a specific appropriation.

The Senator knows full well that once the President made that decision to go to the legally correct interpretation——

Mr. LEVIN. They have not made that decision.

Mr. QUAYLE. That is what I am saying, that this amendment is not attempting to deny funds to a specific program because there is not a specific ongoing program under the legally correct interpretation.

Mr. LEVIN. We do not know yet whether the administration will move to a broad interpretation. All we are saying is that we do not want to write a blank check that will give them the right to unilaterally move to that without our having a role in the process. What you want us to do is to write a check for $4.5 billion this year for SDI and then tell the administration to take the money and run: "You can do whatever you want and we will not have a role."

It is very possible that if the administration decided to interpret this treaty in a new way, the broad way, that the Congress might not appropriate $4.5 billion or authorize $4.5 billion. There are a whole lot of us who would never vote $4.5 billion if the administration were going to move to a new or broad interpretation of the ABM Treaty.

In other words, it is contingent. We put the $4.5 billion in but that is on the understanding of the representation that has been made to us, that they will continue to operate under the traditional or narrow interpretation of the ABM Treaty. You are saying, "What the heck, write the check. If they want to move to the new interpretation, that is our tough luck."

It is not our tough luck. It is the Constitution's tough luck if we allow that to happen.

Mr. QUAYLE. It is the Constitution's tough luck, which this Senator is preparing to do, to pass an arms control bill and decide what the majority of the Senate wants to have as an interpretation of the treaty, which I submit is not constitutionally proper for the Senate to do. I do not think the Senator from Michigan has disputed that, that the interpretation power rests with the executive branch. But the Senator's amendment is premature at best, premature because, as he well knows, we get into all sorts of line items. The SDI account has line items for all sorts of programs and there is no line item in there to go to the legally correct interpetation on testing and development of SDI. The administration has further said when, in fact, they move to such tests, not only will they tell Congress, but in Congress we pass laws all the time, and I am sure the chairman of the Armed Services Committee can pass out a bill in the matter of hours, if he wants to, and send it to the President saying, "We do not want you to spend money on this specific program."

But that is not what we are engaged in. We are engaged in the interpretation amendment. SALT II debate included people who had an anxiety about the dense pack, who did not think it was going to work, who had all sorts of names for that. Some called it the dunce pack, things like that. That is a debate I remember. The Senator referred to it in the debate concerning Senator MITCHELL and others, where you and others had concerns about the SALT Treaty and the ABM Treaty.

A far more proper way to voice such concerns is to make it a sense-of-the-Senate resolution to have our voice heard, rather than binding interpretation language on a defense authorization bill, which I believe is absolutely the wrong way to go. There is a serious question of the constitutional issues. We, by a majority vote, will interpret it as the law of the land, the majority here, and on the other side, will interpret what that treaty is as the law of the land. Do you want the Senate to start interpreting court cases? Absolutely not. I know the Senator does not want that. But that is exactly the type of direction we are going.

Mr. LEVIN. We appropriate money all the time and we all the time determine whether the money is for a legal purpose. We make those determinations all the time around here. We do not appropriate money for purposes which are illegal. At least, I hope we do not.

Let me conclude. We do not know, and I am glad the Senator says at best it is premature, but premature, it seems to me, is the argument that the President is going to move to a broad interpretation. We do not know that he will. The point is that we cannot give him the unilateral right to do that. We have a role in the appropriation of money. We do not have to write the check and say, "Here," and then allow him to expend or obligate those funds under a totally different set of circumstances than existed when we appropriated the money, or appropriate the money the way he has come to us, which is that he is continuing at this moment to abide by the traditional interpretation. We are not under the obligation to say, "Here is the money. You can now spend it any way you want, broad or narrow." We are not obligated to do that.

We can say this. There is nothing in the Constitution which prevents us from putting a restriction on the appropriation of funds. There is nothing in the Constitution which says we cannot tell the President of the United States, "If, if, if you want to move to a different interpretation of this treaty, then we want you to come back and see whether or not we will approve the expenditure of these funds because we might or might not have approved $4.5 billion if you told us you were going to operate under a broad or new interpretation of the ABM Treaty."

That is all we are saying.

You want to label that, if you want to label that, if you want to, that that means we are interpreting a treaty. The way I label that is that we are appropriating funds and we want to do it in a way which is legal, and we have a right to do that.

I think we have taken an oath to do it in the way which is legal.

I will go further with my friend from Indiana. I think our oaths require us to authorize and appropriate funds which are legal. You have conceded that the treaty that we entered into and ratified is part of the law of this land.

Mr. QUAYLE. Now, I think we are getting to another very fundamental difference that the two of us have, not only what this amendment is, what I perceive to be an interpretation amendment, and not an appropriation amendment, because there is no broad interpretation program that the President has yet requested. It is prospective. It is premature at best. But the Senator has just said that if you want

to give a blank check to do something, that is illegal.

Mr. LEVIN. That some of us think may be illegal.

Mr. QUAYLE. I do not see that to be illegal.

Mr. LEVIN. There are many of us in the Congress, perhaps a majority, who believe that the interpretation which was in effect from 1972 until 1985, which was announced on television might not be the correct interpretation. Many people believe in this Congress that that is the correct interpretation of the law which binds us, and by the oath we have taken we have said we will comply with that.

Mr. QUAYLE. That goes back to the fundamental question I asked at the beginning: Who is going to be the interpreter of treaties? Will it be the majority of the House and the Senate or the President? Once the President interprets a treaty, if the Congress disagreed with the interpretation, they can delay funds to implement that interpretation, because what the Congress cannot do is to sit there and say, "That is illegal and that you cannot do." Certainly, they can delay funds for a specific request, but they simply cannot interpret the treaty.

I believe what the Senator has said is very important, because he said it may be illegal. What he is asking the Senate to do is to make the interpretation of what they believe the interpretation of the treaty ought to be. That is something that many of us feel is fundamental to the Constitution in the separation of powers in giving flexibility to the executive branch in this very important issue. There are major differences on those two very, very fundamental points.

Mr. LEVIN. I think that the Senator from Indiana has actually in the last few moments said pretty close to what I think this amendment does, which is once the President decides that he wants to move to a new interpretation, then we can deny funds. That is exactly what this amendment keeps open as an option. Without this amendment the President can move to a new interpretation. If he decides to do that and could spend this money immediately, it would then require congressional action in order to block the expenditure of funds. Clearly if we can do that, we can say in advance that if you move to a new interpretation, you ought to come back to us.

Mr. QUAYLE. Will the Senator yield for a question at that point?

Mr. LEVIN. That is a distinction without a difference. And the way you have phrased it is really pretty close to the purpose of this amendment. You have said once the President interprets, we can deny the funds. That is very close to saying——

Mr. QUAYLE. You can deny the funds for a request that the President makes.

Mr. LEVIN. It is very close to saying if the President interprets we can deny the funds and that is exactly what we are doing here. We are not denying the funds. We are simply saying if the President interprets, we then want you to come back and get approval for the funds. So the Senator's description of what he thinks we can do—this two-step process of once the President interprets, then we can deny the funds—is pretty much the intention of this amendment. I would point out in subsection (b) of this amendment we say that:

> The limitation of subsection (a) shall cease to apply if the President submits to Congress a comprehensive report on the systems or components which the President proposes to develop for test; and after such report is received by Congress a joint resolution described in subsection (c) is introduced and such joint resolution is enacted.

I think my good friend from Indiana would concede we cannot have here a one-House veto or a one-House action. That would violate the Chadha decision. You must have a two-House action if anything is going to be legal. It has to be two Houses not only because the appropriations process requires two Houses, it requires two Houses because any veto or any action required by Congress must under the Chadha decision be with two Houses.

If I can just add one other thing which is really important I believe, it is that we want to give Congress the chance to act. What we have put in here is expedited procedures to be sure that Congress can decide. The reason that that is so important is that it confirms what I have said. Along with Senator NUNN, I am a cosponsor of this amendment and this is legislative history we are creating. What I have said is we do not prejudge which interpretation is correct. Now, the author of the amendment is here representing that to you. We did not prejudge which interpretation is correct. What we do prejudge and we do insist upon is a role for the Congress in the appropriation of funds. We want to know, if the President is going to move to a new interpretation, that he is going to do so, and then we want to decide whether we want to allow $4.5 billion to be spent under that new set of circumstances.

That is a very, very different set of circumstances than exist now for many—I will not say all, not for my friend from Indiana—for many Members of the Congress.

Mr. QUAYLE. Will the Senator yield on that point?

Mr. LEVIN. I would be happy to yield.

Mr. QUAYLE. He says this amendment does not prejudge what the interpretation of the treaty should be. If that is the case—as a matter of fact, there might be a way out of it—why not add agreed statement D into the resolution and allow us to go ahead and use money under article V and agreed statement D? Agreed statement D is not part of the resolution.

Mr. LEVIN. I think my friend would agree——

Mr. QUAYLE. Would you add that, agreed statement D, to the resolution?

Mr. LEVIN. No. And I think my friend would be the first to agree that the opinion of the State Department legal counsel is that this new interpretation of agreed statement D would allow funds to be spent for the developments and testing of mobile ABM systems and components. So if you put that in, you are then saying that you are wiping out the whole point of this, which is if you want to move to a new interpretation or broad interpretation of the treaty, come back to the Congress under expedited procedures and get our approval. If you put the language from agreed statement D in there, you completely wipe out the efficacy of this amendment. The point of this amendment——

Mr. QUAYLE. Why not put in the whole treaty?

Mr. LEVIN. The point of this amendment is not hidden. It is a very clear amendment.

Mr. QUAYLE. I know. That is why I am opposed to it.

Mr. LEVIN. It is a very clear amendment and it should not be misconstrued by anyone. It does not prejudge. It does not state what is the correct interpretation. And again, it is important in terms of legislative history.

My good friend from Indiana may some day want to rely on history because if this language stays in the bill, I would guess that if the President wants to move to a broad interpretation of the treaty, my good friend from Indiana will be coming back here saying we should allow him to do it under those expedited procedures. I do not think then you are going to want to argue that the Congress by the adoption of section 233 put itself on record as committing itself to the narrow interpretation of the ABM Treaty. Do you really want to say now that, if we adopt section 233, we are committing ourselves to the narrow interpretation of the ABM Treaty? Are you saying if we adopt section 233 you are not going to come back here if the President decides to move to a broad interpretation and argue under those expedited procedures that we ought to let him spend the $4.5 billion under the new interpretation? Is that what you are saying?

Mr. QUAYLE. There is no doubt in my mind that the Senator from Michigan and the chairman of the Senate Armed Services Committee, who are authors of this amendment, believe in the narrow interpretation. The reason we have this amendment is because of

your belief in the narrow interpretation and you do not want to see the administration go to the legally correct interpretation. So therefore, I presume people will be voting for that and will be voting for the narrow interpretation, which is an interpretation amendment, which is something that I fundamentally object to and that is the whole argument.

I think the Senator is stating it perhaps better than I. It is the interpretation that I object to, not the spending of money.

Mr. LEVIN. We believe it is Congress having a role in the appropriation of funds. Now, obviously we believe that the narrow interpretation was the correct one. We have made that clear. But the issue is this amendment does not take the position that the narrow interpretation is the correct one.

Now, I am a cosponsor of this amendment. All I can do is repeat to my friend from Indiana what our intention is. It was crafted very, very carefully to avoid putting Congress in the position of saying that the narrow interpretation is the correct interpretation. It was crafted to give Congress the right, if and when the President moves to a broader interpretation, to then decide whether we want $4.5 billion to be spent under those circumstances. That is all the amendment does.

Now, then you say, "Well, gee, Senator NUNN and Senator LEVIN have already expressed themselves in support of the narrow interpretation." And that is true. But this amendment does not adopt the narrow interpretation as the interpretation of Congress.

Let me ask my friend a question he has not answered. If and when we adopt the language of this bill, section 233, are you then waiving your argument later on on this issue? Later on, when the President comes to us under these expedited procedures, will you then be conceding that we have already adopted the narrow interpretation in this language? Are you going to waive that right now?

Mr. QUAYLE. Absolutely not, because if in fact the President goes to the legally correct interpretation, I will be advancing and hoping that the Congress in fact will approve that.

Now, under this resolution the majority of the Senate might be convinced but a minority in the House can undo what the majority of the Senate just did. I would say that that is, in my view, somewhat of a one-House veto.

Let me say one thing. The Senator keeps saying that his intention is not to interpret the treaty. I accept that. I have worked with the Senator long and hard on many issues and when he tells me that is his intent, I accept that. Let me just tell him something. In expressing your intent, you could do it a lot easier than by saying you do not want a reference to the treaty by instead putting in the whole ABM Treaty, or at least put in agreed statement D. What the Senator has done is to take out the most restrictive part of the ABM Treaty that happens to be compatible with the narrow interpretation and it is certainly very difficult for me to believe that you have not got some bias and prejudice and you want people to vote on your interpretation because that is the only provision that is referenced in the resolution that is before the Senate in the DOD bill. That is my difficulty.

Mr. LEVIN. That is the obvious way of making reference to a narrow interpretation of the treaty, which is exactly what the amendment does. It says if you want to move to a different interpretation, come to us for approval. That is all it says. That is the easiest way of making reference to a narrow interpretation of the treaty. The words "narrow interpretation of the treaty" are not words of art that can easily fit to a statute.

Would my friend from Indiana be happier if we said, if the President wishes to move from a narrow to a broad interpretation of the treaty, then he should come back to the Congress and get approval of the Congress? Would he not be standing there then?

Mr. QUAYLE. No. My desire would be that when and if—and who knows when this administration is going to move toward the legally correct interpretation. It has been quite some time. It has slipped for a long time. We have not gotten too far. But when they do that, the Senator from Michigan, the chairman of the Senate Armed Services Committee, has plenty of time, opportunity, power of persuasion, and other things I might add to get their thought across in a very proper way. They can deny the funds for a specific request of this President or any President.

I do not have any problem with that. I may oppose it. I am sure I would oppose it. But I would face head-on the denial of funds for a specific request that the administration has. It would be a line item in the DOD bill or the appropriation bill. We would have not a hypothetical situation or a theoretical situation way in advance. We would have something up front right now, we would debate it, argue whether we want to go ahead with a test, and maybe it would be the space-based kinetic kill vehicle. Maybe they say they want to test that. They can test if they want to move toward testing and development. It is all right with me.

We can sit there and say hey, wait a second. They are for a narrow interpretation. We do not like that. If you do not like it, strike it out. Delete it if you do not like it. Whatever you wipe out in the committee, try to restore on the floor or whatever it may be.

We can have a special bill. We do not have to wait for the DOD authorization bill.

This is a very important issue. I am sure there are ways we can get it before the Senate. I am sure the House would help you out. They pass everything quickly. If I understand you, they ought to be equal parties in these treaties particularly in the interpretation. We will have some new constitutional delegation of authority going on around here.

Mr. LEVIN. The whole point is without this language, the section 233, the President can spend for testing and development of the mobile system without even a request. I am very much intrigued by the Senator's position that it is consitutional. If the President reaches a new decision, interprets the treaty in a broad way, then says that is the way he is going to start spending money, then the Congress can say, "No, you are not." The Senator would say that that is not interpreting the treaties. The Senator says Congress can do that.

Mr. QUAYLE. Yes, denying funds.

Mr. LEVIN. Fence the funds in advance is what the Senator is saying. I know of no constitutional authority for that statement. I know of no constitutional authority for the position that we cannot put a fence around the expenditure of money when we can block the expenditure of those funds.

Mr. QUAYLE. What program is the Senator fencing the money from?

Mr. LEVIN. I am just saying the Senator has said we can block the expenditure of funds based on our interpretation of a treaty if it is different from what the President just announced yesterday.

Mr. QUAYLE. It is not based on it. It would be a denial of funds which the Congress can tell. Tell me what program the Senator is denying funds for. He cannot tell me. There is not one.

Mr. LEVIN. It can be anything.

Mr. QUAYLE. I wish there was one. I wish we could have a debate on this program. I have been telling the administration for a year that they ought to get on with it. They have not. I have lost that argument within the administration thus far.

Mr. LEVIN. The Senator lost another argument in the administration, too, because Judge Sofaer does not call this the legally correct interpretation.

Mr. QUAYLE. What is it called?

Mr. LEVIN. He says, "I have never used that phrase, never."

Mr. QUAYLE. What does he call it?

Mr. LEVIN. "It is a primitive phrase, don't you think. It is silly to talk about this treaty, this ambiguous treaty with phrases like that." That is what Judge Sofaer says about the Senator's description of this as the legally correct interpretation.

Mr. QUAYLE. I am delighted that the Senator agreed, and congratulates Judge Sofaer——

Mr. LEVIN. I do not congratulate.

Mr. QUAYLE. The Senator talked about Judge Sofaer.

Mr. LEVIN. I did not congratulate.

Mr. QUAYLE. I am going to reference the Senator's admiration for his ability to interpret words and things of that sort.

So I thank my dear friend from Michigan.

Mr. LEVIN. He is balanced, in my view.

Mr. QUAYLE. I know. Maybe we can get more balance as Judge Sofaer becomes more known to other Senators around here.

Mr. LEVIN, I want to show the Senator when Judge Sofaer comes up with something that is credible, as he has with this comment, I am the first to be espousing the wisdom of the particular comment that he has made. This one it seems to me is.

He has a lot of wisdom and things of that sort, and I certainly concur and want to be associated with the Senator's remarks.

Mr. LEVIN. Appropriating funds is Congress' province. How many dollars are spent on a program is Congress' business, as is the question of how those funds are spent.

Section 233 doesn't tell the President how to interpret the treaty. It tells him how we are willing to spend taxpayers' dollars.

Congress regularly considers limits on spending to conform that spending to its view of the requirements of the law of the land.

This was the case during the debates on the MX basing mode called dense pack. This was the case during debates on aid to the Contras. This was the case during the debates on funding for the mining of Nicaraguan harbors.

In all those cases, Congress wanted a role in funding programs which some felt violated a treaty which the United States had freely entered or agreed to comply with even in absence of ratification.

There's nothing new in what we are doing here. The bill language simply preserves Congress' say in how SDI dollars are spent. Section 233 simply provides that Congress won't hand over to the President the unilateral decision on how those SDI dollars will be spent.

The administration testified repeatedly that the SDI budget includes no plans for the testing or development of mobile ABM systems or components. Based in part on that testimony, the Armed Services Committee recommended the authorization of $4.5 billion for SDI. Should we not be able to rely on that if we want to? Surely we can say that if the President changes his mind and decides to apply a new interpretation, he should come back to Congress for our approval.

The committee included section 233 in the bill to ensure that if the administration changed its mind, the Congress would preserve its constitutional prerogative to approve or disapprove the expenditure of funds.

Section 233 does not impinge on the President's constitutional prerogatives. Rather it preserves the constitutional prerogative of the Congress to approve, disapprove, or limit the expenditure of Federal funds.

There are a number of reasons why Congress might decide to limit the expenditure of funds for testing or development of mobile ABM systems and components.

We might decide that a move toward near-term deployment of SDI is not wise, regardless of what is permitted or prohibited by a treaty to which we are a party. We might decide that near term technologies offer little hope for an effective defense, and that therefore the SDI budget should be spent on those technologies that offer more promise in the long term. Or, we might decide that such activity would constitute a violation of specific U.S. treaty commitments, and thus the law of the land.

Some say a congressional effort to exercise judgment on this issue would be tying the President's hands or pulling the rug out from under our negotiators. I'm afraid the rug rhetoric is threadbare. We were told not to constrain the MX missile or its basing mode—that we would thereby pull the rug out from under our negotiators. We were told not to cut the administration's annual SDI requests—that would pull the rug out from under our negotiators.

Well, we did both because our view of national security led us in good conscience to that conclusion. Our negotiators are still standing firmly on a stable rug. They are on the verge of entering into significant agreements with the Soviets and the administration admits we are powerful and strong.

Opponents say that section 233 gives the House of Representatives a one-House veto. It's not section 233—it's the Constitution which requires both Houses of Congress to approve spending. This provision, section 233, does not give the Congress any more authority than the Constitution provides: it preserves the congressional power to limit the way in which the President spends money. It is the Constitution which provides that both Houses approve not just how much is spent, but how Treasury funds are spent.

As we celebrate the 200th anniversary of the Constitution, we must recognize that all parts of the Constitution deserve celebration—not just the Executive powers provision. No Congress worth its salt would give up the power of the purse and turn over the purse strings to the executive branch. There is nothing unusual about Congress making certain that funds are spent according to law.

Under our Constitution, no President can demand a postdated blank check and claim he is entitled to it.

No Congress worthy of the constitutional grant of power over the purse should write such a check.

I think our colloquy with Senator QUAYLE has brought out some of the issues that I was going to go into. But the important issue here on this day we are celebrating the 200th anniversary of the signing of our Constitution is that this Congress has the right, the obligation, the sworn duty to appropriate funds. Senator QUAYLE I am afraid wants to jump right to article III or article II, get right to the executive and judicial branches of the Constitution. There is an article I. It comes first. It has to do with the Congress of the United States. It has to do with appropriation of funds. It has to do with the purse strings.

We are not obligated to hand over the money and allow the executive branch to spend it any way it wants to. We are both entitled and indeed obligated to make sure that money is spent in a way which is lawful and in compliance with the laws of this land including the treaty of this land. And there is no distinction that I know of in the Constitution between restricting the expenditure of funds as we have and between doing what Senator QUAYLE suggests he could accept, which is to block the expenditure of funds the day after the President announced a new interpretation of the treaty. We are saying if and when the President interprets the treaty in a broad way, we want you to come back to us for approval. That is all we are saying.

I know of no doctrine in the Constitution, no theory which would stop us from placing a restriction on the expenditure of funds in this way. We have done it repeatedly in the past. We did it in 1983 when it came to a basing mode for the MX missile. We said you cannot produce MX missiles until you come back to us with a report on a basing mode. We fenced that money. We made the administration come back to the Congress. We put in expedited procedures as we do in this language in section 233 to make certain that Congress could act following a decision by the administration if this administration decides to adopt a broad interpretation of this treaty, and again we do not know that they will. If they do, all we are saying is come back to us. We want a role. We do not want to cut off those purse strings and hand you the purse. We want to keep those purse strings

where this glorious Constitution which we are celebrating today put them, which is in the Congress of the United States.

Mr. WARNER. Mr. President, at some point would the distinguished Senator from Michigan entertain a question?

Mr. LEVIN. I am yielding the floor.

Mr. WARNER. I just much prefer if he would just accept a question.

Mr. LEVIN. Sure.

Mr. WARNER. I have listened with great interest to the Senator's analysis of this amendment, and he repeatedly said we want just to look at it. He keeps referring to the "we" and the role of the Congress.

In the drafting of this amendment did the Senator from Michigan, perhaps the distinguished chairman of the committee and others who collaborated, look at an option whereby both Houses proceeded to address the issue in much the same way we address other issues; namely we have to collaborate between the two Houses?

Mind you, by raising this question in no way am I acceding to the propriety or the advisability of the amendment. But I am just interested.

Did you consider the option whereby both Houses would participate, as we do on other bills, and perhaps have a conference, so that there is some jointness between the two Houses, comparable to the manner in which we pass other laws? As has been pointed out by the distinguished Senator from Indiana and myself and many others, we do read into this clearly a one-House veto. It is of great concern to this Chamber that the House of Representatives, just a handful, could override the judgment of all 100 Senators on this issue and, indeed, the President.

Hypothetically, suppose the President decided on a course of action in accordance with the Levin-Nunn amendment and came to Congress, as specified in the amendment, and the Senate, which is very knowledgeable on this amendment now, debated it, and all 100 Senators participated one way or another, at least by voting on it, and supported the President. Then the House of Representatives—and I do not say this in any pejorative sense—summarily handles it. A handful of Members of the House happen to assemble, and a majority present and voting decide the issue and, in effect, overrule the judgment of the President of the United States and the judgment of this Chamber.

My question to the Senator is this: In devising this amendment, did you consider an option—and I am not certain I can sit down and draft it right away—by which both Houses collaborate, go to conference, and then there is some joint action of Congress, which it seems to me would be more consistent with your repeated use of the words, "We want you, Mr. President, to come back and seek our approval."

Mr. LEVIN. This language was patterned after the Jackson approach in the dense pack basing mode.

Mr. WARNER. Mr. President, I realize that there are precedents, but now that I reflect on them, the distinguished Senator from Indiana raised one which did not relate to any treaty, but we made a mistake perhaps in that mechanism. We are in a critical situation. Some of us feel strongly that the action of a single Chamber is tantamount to the interpretation of a treaty, so it is different from dense pack and MX.

Mr. LEVIN. I am glad you acknowledge that there is precedent for this, because the dense pack approach was exactly this. It required a concurrent resolution of Congress.

There is a very simple basis for this. The Constitution requires that money be spent only after both Houses of Congress approve. So you may not like the fact that both Houses of Congress have to approve the expenditure of funds, but your problem is with the Constitution.

Mr. WARNER. Mr. President, I do not object in any way. I am proud to be a Member of the Senate, and I recognize that both Chambers have to act jointly on money bills. But I ask my colleague: If you are going to do it, why did you not try to devise a statutory procedure by which both Houses, acting together, have a conference, and there is some jointness in the action, before we overrule the Commander in Chief of the Armed Forces, the individual who under the Constitution is given what I regard as preeminent responsibility for this Nation beyond its shores?

Mr. LEVIN. I know of no better word for "joint" than "joint." It requires a joint resolution, under expedited procedure.

Mr. WARNER. Is there a conference? Is there collaboration?

Mr. LEVIN. You say "collaboration." The only way you can have expedited procedures—one way legally is to have a joint resolution, which is what we provide for, which is perfectly constitutional, my friend will acknowledge.

Perhaps you can devise some other approach to achieve a joint resolution. There are perhaps many other approaches. Under the Constitution, a joint resolution is what this language requires, under expedited procedure. So perhaps the Senator from Virginia could devise another way to a joint resolution, but this is the way this particular language reads.

Mr. WARNER. It seems to me that on money bills, we go to conference and send them to the President. This issue is far more important, in my judgment, than the money bills. This goes to the very heart of the security of this Nation, this particular ABM Treaty.

I am not pronouncing whether I am for the broad, the narrow, or the third position enunciated by the Soviets. Why should we adopt a procedure that preempts the work of the two Houses together to share the views as to any differences of opinion between the two Houses?

Mr. NUNN. Mr. President, if the Senator will yield, would the Senator from Virginia prefer us to drop that resolution and just leave that out, so that it would just be an ordinary law of Congress?

Mr. WARNER. We are looking at a lot of options.

Mr. NUNN. That would just be the normal procedure. We thought we were putting something in that would help the President, help the administration, and help the overall feeling on this subject by expedited procedure. We can drop that, if that gives the Senator concern, and we can have a regular law, which is subject to debate and filibuster and all that.

I am puzzled by the Senator's objection to something which expedites the President's move.

Mr. WARNER. Mr. President, I am talking about this Chamber working on it. Then perhaps 30 or 40 Members of the House might show up some day, with a simple majority present and voting, and could overrule the majority of this Chamber.

Mr. NUNN. Is that not the case with the $4.5 billion in SDI? Is that not the case of funding of every test in SDI, every ship, every submarine, every bullet, every pay raise? For everything we provide for the military, we have to have two Houses. The Senator being from Virginia, I thought he would be in favor of having the Senate and the House.

Mr. WARNER. It would be nice to go to conference and perhaps share the views of the two Chambers.

Mr. NUNN. The way to do that is to knock out the resolution and have it go through the normal procedure of having anyone on the floor of the Senate being able to filibuster and having 34 Senators being able to block consideration of the resolution. The Senator really does not want that, does he?

Mr. WARNER. Mr. President, we will work on that during the course of the debate.

Mr. NICKLES. Mr. President, I join my colleague and friend, Senator WARNER, in his amendment to strike out section 233, limitation on development or testing of space-based and other mobile antiballistic missile systems, which is included in the Department of Defense authorization bill.

I, like many other Senators, have been chagrined that we have been on this bill so long and have spent a lot of

time on this amendment. But this amendment, which deals with restricting SDI, or the strategic defense initiative, is very important. It is one that may have very long and lasting implications, not only in the Congress, but also in our negotiation process with the Soviets, in the efforts we make and the abilities we have in being able to come up with systems designed and capable of protecting the American people, capable of protecting our country, capable of protecting our defense capabilities.

As I have told the President and some of my constituents, I think it is high time we start working on developing systems that are capable of destroying weapons, not people. That is really the essence of what the strategic defense initiative is all about.

Quite a few people are excited about the fact that we are involved in negotiations with the Soviets in Geneva and Washington, DC, with Soviet Foreign Minister Shevardnadze visiting with Secretary Shultz; and people are optimistic and hopeful that an agreement can be reached on the INF talks. I hope so, as well.

Also, there have been discussions going on for a couple of years dealing with the START talks and in the space and defense technology talks.

I have visited with the Soviets and know that the Soviet Union is concerned about SDI. I have been pleased and honored to participate as a Senate observer for the arms control process. The Soviets, in my mind, do not care so much about the definition of what you call a broad or a narrow interpretation of the ABM Treaty. They are interested in whether we design components or systems capable of destroying their missiles.

They are interested in what kind of progress has been made by the United States on strategic defense. The Soviets take a very broad view of the ABM Treaty. If there is any ambiguity in any treaty, they will drive it to the hilt. If it is to their advantage to do so they will abrogate the treaty or violate the treaty. Many times we have been too silent dealing with treaty violations.

Is it not interesting that the United States and the U.S. Senate will spend so many hours, days, and months discussing the treaty, discussing one clause of a treaty, article V in the treaty, which is now inserted in this DOD authorization bill? Is it not interesting that we will spend so much time and legal effort by the State Department attorneys, by legal counsel, in trying to define what we can do or cannot do, and so little time in saying what are the Soviets doing? Does it really make any sense whatsoever for the United States to impose restrictions on ourselves while the Soviet Union does not.

A treaty, Mr. President, is supposed to be mutually binding, but time after time, we find that the Soviets have not bound themselves. But, we end up unilaterally binding ourselves.

That is not a wise course of action to follow, but yet we have seen it happen time and time again.

The net result of the language that we have dealing with section 233 is exactly that. We are imposing restrictions on ourselves by taking a piece of the ABM Treaty out, placing it in the middle of this authorization bill, saying "funds appropriated or otherwise made available to the Department of Defense during fiscal years 1988 and 1989 may not be obligated or expended to develop or test antiballistic missile systems or components which are sea based, air based, space based, or mobile land based," unless a joint resolution of Congress agrees to such thing.

Certainly the Soviet Union's aggressive ABM effort is not self-restricted. If they are able to come up with a system that increases their defense capability certainly they will do so.

I echo the comments of Senator QUAYLE who asked, is it not ironic that we take only the one section of the ABM Treaty and insert it into the DOD bill? I will read article II, Mr. President which we did not put in the DOD bill, which says:

> For the purposes of this Treaty an ABM system is a system to counter strategic ballistic missiles or their elements in flight trajectory, currently consisting of—

And then it enumerates several specific components. It did not say all future systems. You might ask why did it not include future systems. That concerns the agreed statement D, which was agreed upon there are some disagreements on what agreed statement D would do, but certainly this question has been researched by Judge Sofaer and many others. Paul Nitze, Richard Perle, and many others who were involved in the negotiations say that it limited deployment. Agreed statement D did not limit testing or development.

If you read agreed statement D, it says:

> . . . the Parties agree that in the event ABM systems based on other physical principles and including components capable of substituting for ABM interceptor missiles, ABM launchers, or ABM radars are created in the future . . .

Which implies to me that the negotiators anticipated that other systems to substitute for launchers and missiles would be created in the future—

> . . . specific limitations on such systems and their components would be subject to discussion in accordance with Article XIII and agreement in accordance with Article XIV of the Treaty.

In other words, in agreed statement D it really says that, yes, there are going to be future systems and we will talk about them later. It did not prohibit the systems. It did not prohibit the development of those systems.

Yet by the language that we have in the bill before us with the Levin-Nunn amendment we are basically saying we are not going to do that; for the next 2 years let us not spend any money in testing and development. I think it is more restrictive, much more restrictive than what we have in the ABM Treaty.

Can it be done?

I would say, yes, Congress has the power of the purse. Congress can put all kinds of amendments on how we are going to spend money. The House of Representatives went much further. It said, "We will not spend any money dealing with sublimits of SALT II."

Yes, language such as that can be done.

So in a backward way which bothers this Senator and should bother all Senators, we basically have one or both Houses by the power of the purse say whether or not we are going to implement the treaties. Certainly that is possible. Yes, it is the President's responsibility, the administration's responsibility to conduct the negotiations of a treaty. It is the Senate's responsibility under the Constitution to ratify the treaty. It takes both Houses of Congress to fund those treaties, and there is no doubt that both Houses, yes, if they want to place undue restraints on those treaties they have the power to do so, and it will all be constitutional.

What seems ridiculous to me, though, is for the Senate to place arbitrary restraints on the United States, on our country, through the funding process when the Soviet Union does not. The Soviet Union has an aggressive SDI Program, and ABM Program. They are very active in an antiballistic missile defense system, very active. The United States has not been as active as they have. They have not only been active, they have not only interpreted the treaty to the broadest extent possible, but they have also violated the treaty, violated the treaty time and time again.

We hear statements on the floor, we even had a few Congressmen visit the Krasnoyarsk radar. We hear some say we think maybe it is a violation of the letter of the law, maybe not the intent, or vice versa.

The ABM Treaty, article VI, paragraph (b) says, "the United States and the Soviet Union agree not to deploy in the future radars for early warning of strategic ballistic missile attack except in locations on the periphery of national territory and oriented outward."

Krasnoyarsk fails in both those categories. It is a violation of the treaty.

We are nitpicking, arguing over this broad-versus-narrow, and whether or

not we are going to constrain scientists and developers of the SDI Program with very technical legal constraints. There may be a legitimate difference of opinion—I do not argue that, and I certainly do not question the sincerity of the sponsors of the amendment. But as a net result, if this amendment is implemented we will be constraining the United States and we will not be constraining the Soviet Union in any way.

Now that makes no sense. That does not work to the defense capabilities of the United States. That does not make the United States any safer. It actually increases our vulnerability. That is not a smart thing to do. That is not something we should do in this DOD bill. It is not something we should do on any other bill.

The President has stated he will veto this bill if the Levin-Nunn language is in it. He will be exactly correct in doing so. I would hope and pray that he would.

Again, let us look at what the Soviets have said. In 1972 Soviet Defense Minister Grechko proclaimed that ABM Treaty imposed "no limitations on the performance, the research, and experimental work aimed at resolving the problem of defending the country against nuclear missile attack."

Basically, he said that this treaty will not stop the Soviets from protecting their country. They adamantly protected their right to be able to develop and test systems, so they could work on developing an ABM system.

Actually, the United States negotiators sought an agreement to limit future systems. They wanted to ban testing. They wanted to ban development. They wanted to ban deployment. All they received from the Soviets was banned deployment. That was all they received. And even that part is somewhat ambiguous as far as an agreed statement D. But, they did not receive an agreement to ban all future systems.

We are getting ready to give it to them. We are getting ready to impose that limitation on the United States, but we are not going to impose it on the Soviet Union. That is what is really absurd.

The Levin-Nunn amendment is not the only thing which alarms me. It may be the only amendment we are discussing right now, but if you look at the House language on arms control issues, they want to further restrict the United States. There is no limit to the desire of many people in Congress to place restrictions on the United States without getting any comparable restrictions on the Soviet Union.

I happen to think arms control treaties can be good if you can actually get some real reductions in weapons systems and if you can make sure that both sides comply. And if they do not comply, maybe we do more than just say, as we have in the past, "Oh, they didn't comply, but we are going to continue complying."

In the case of the ABM Treaty, the Soviet Union is not complying, and is in gross violation of the treaty. They even invite a group of Congressmen to visit the grossest violation of the treaty, the Krasnoyarsk radar, and the Congressmen come back singing the praises of it.

At the same time, we have our Congress, both the House and now the Senate, trying to impose very strict interpretations of the treaty. We do not want to violate one iota of the treaty even though the Soviet Union is violating it every single day and we know it and they know it.

In my opinion, that makes it very difficult for us to be successful in the negotiating cycle, which, again, I hope that we are. We have a very competent team in Geneva and have made real progress. I hope we do come up with a treaty that really does reduce the tension and that really does reduce nuclear weapons.

But it has to be a treaty that is mutually agreed to and mutually observed. And if it is not mutually observed, if the Soviets grossly violate it or continue to violate others, I think we should note that and not take action to restrict our own development, or restrict our testing. At the same time as we are negotiating new agreements, they are wantonly, aggressively expanding their testing, expanding their development, may even be expanding their deployment in various categories while we sit on our hands. That does not increase our stability, our security, or our national interests.

The timing for this amendment and those amendments coming from the House, particularly the one dealing with SALT II sublimits, could not have come at a worse time. SALT II was never ratified. You go through the constitutional process. Yes, the Carter administration signed the SALT II Agreement, but it had to be ratified by the Senate. It was not ratified by the Senate, even though it was strongly controlled by the President's same party.

Many people, Democrats and Republicans, felt that treaty left a lot to be desired. They did not think it was equal. They did not think it would help the security of the United States. So we did not ratify the treaty. But now we have one House that is trying to mandate compliance with a particular section of the treaty, with just one section of the treaty.

Just like this language that is in this bill right now quotes from article V of the treaty, but, as Senator QUAYLE pointed out, it left out agreed statement D which dealt with future systems. In other words, we put in language that said no money whatsoever for development or testing of SDI. I will mention the language again:

> No money to test, deploy, or develop ABM systems or components which are sea-based, air-based, space-based or mobile land-based.

But it does not talk about what ABM systems are as defined in article II. It does not mention future systems as discussed in agreed statement D. So we take the most restrictive portion of the ABM Treaty and insert it in the DOD bill.

The House has done the same thing on SALT II. They have said, "Well, numerical sublimits, we mandate that. Of course we won't mention the fact that, yes, the Soviets have deployed new missiles outside the range of the treaty. We won't mention other areas where they violated the SALT II Treaty. We are going to just impose on the United States one particular section."

Again, I just fail to see the wisdom in that type of logic and the timing. The timing of this amendment absolutely could not be worse.

One of the reasons why several Senators on this side, myself included, did not want to see the DOD bill come up with this type of restriction was because we really are hopeful or optimistic that maybe we can conclude a positive, real arms reduction treaty with the Soviet Union on INF, intermediate range missiles, zero-zero. We actually want to bring down a whole category of missiles. The Soviet Union has a lot of SS-20 intermediate range missiles. They are threatening all of Europe and a lot of Asia. Let us reduce those down to zero-zero. The President made that proposal several years ago. A lot of people from time to time say it is not realistic. It is realistic. It is happening because we are persistent.

It can actually enhance security, in my opinion, if it is real. If we actually know they are destroying those missiles, not just moving them back, not redeploying them somewhere where we do not see them. We have to make sure. We have to verify. We have to actually witness those missiles being destroyed or dismantled. But we can do that. We are close to being able to do that.

I think the negotiators have made real progress in strategic systems, in the long-range systems, those that threaten the United States. And that really is in the interest of the people of the United States. That has a lot of positive appeal. And they are talking about really reducing the number of warheads. That is positive.

Some people come back and say, "Well, wait a minute. The big hangup is SDI."

The reason why the Soviets are really interested in doing something on the strategic systems is that they are concerned about SDI. They are very concerned about SDI.

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I know that my colleagues and the chairman of the Armed Services Committee, when we have gone to Geneva, we have heard the Soviet negotiators tell us time and time again, "You are not going to get anything on the strategic systems, the long-range systems, if you do not give something on SDI."

That tells you that they are concerned about SDI. They want SDI in on the table. They want to be able to negotiate it.

Well, if we are not careful we are going to give it to them.

We are not going to negotiate it, we are just going to give it to them. What sense does that make?

Do you remember canceling the B-1 bomber? Did we get them to cancel the Backfire bomber when we canceled the production of the B-1 bomber back in the late seventies? We did not get anything for it. That is what we are doing here when we end up basically handcuffing the SDI program in this manner without getting anything in return.

I happen to be an advocate of SDI. I happen to think it makes sense for us to try to develop systems capable of protecting American people, American cities, American weapons. Let us protect ourselves. Let us have weapons to destroy weapons, instruments to destroy weapons, instruments to protect our people. That makes sense. It makes eminent good sense. I do not want to see us negotiate or throw that away. I do not think we should. I certainly do not think we should throw it away without getting anything in return.

If we handicap ourselves by placing undue restrictions on ourselves that the Soviet Union does not have placed on them, that is exactly what we are doing.

I have visited with General Abrahamson. He said,

> Yes, we can conduct an SDI program under the narrow interpretation. But, yes, it is going to also be much more expensive, a lot costly, a lot more time consuming.

For what reason? Again the Soviets do not impose that kind of restraint on themselves.

For treaties to be positive they have to be mutual. It has to apply to the Soviets as well to ourselves. Frankly, in the ABM Treaty we negotiated for a strict treaty. We negotiated for a treaty that would limit future testing, development, and deployment. We did not get it.

The Soviet Union knows that and they have acted all along that this is quite obvious. The strictness is not in the treaty. But yet we are getting ready to impose it upon ourselves. I do not think that makes sense.

We should help our negotiators. They are making real progress. They have been negotiating for years. They are getting close, very close, on INF. They are not all that far away on doing something real on long-range weapons systems, as well, on the START talks.

Ambassador Lehman, in my opinion, has done an outstanding job; an outstanding job.

And I would encourage any Senator on the floor and any Senator who might be listening to contact the negotiators. Call Ron Lehman, call Ambassador Cooper, call Paul Nitze, call Max Kampelman. Ask those individuals who have been negotiating across the table from the Soviet Union what this amendment means. Ask them if we should be placing restraints on the SDI Program without even negotiating, without getting anything in return. If you will ask them, I think that they will tell you that they would much prefer to see Congress not tie their hands; to give them as much flexibility as possible.

The Soviets are concerned about this SDI Program. They are very concerned. They would love to see us limit it either through appropriations or through legislation like we are getting ready to do.

They would like to see the restraints. Do they have to trade anything? Do they have to say: We will limit any testing in these areas? The Soviets do not have to give up anything.

Did we negotiate and say, well, wait a minute. We do not want you to enhance your capabilities for defensive systems; we do not want you to be doing any testing or development for ABM systems, so we will both do this together?

Are they giving up one iota for our putting this language in? No. We are constraining ourselves. We are not constraining the Soviet Union.

To me, that is a very serious mistake; a serious mistake dealing with ABM. It would be a serious mistake if we acquiesced with the House language dealing with SALT II. It would be a mistake if we acquiesced in the House language dealing with ASAT, putting restrictions on ASAT.

All these are very important questions. The Soviets have an aggressive ASAT program. I hate to see us take unilateral positions that put us in an inferior position, either negotiating or strategically or in defense posture with the Soviet Union.

I very much want and pray to have a safer world. I happen to think we are going to be much safer when we have comparable systems and the Soviet Union knows that we possibly have systems capable of protecting ourselves.

I was shocked when I learned that we do not have systems capable of destroying incoming Soviet ICBM's. A lot of Americans do not know that. They do not know that we cannot destroy an intercontinental ballistic missile [ICBM's] coming over the polar area. We can monitor it, we can retaliate, but we cannot destroy it, and that is what we are really talking about trying to develop with SDI. We are talking about coming up systems able to destroy missiles coming over. Let us do that. Let us work on this.

You know, this is one of the things that has disappointed me concerning debate on this issue and all the technicalities dealing with broad versus narrow. This may be great for the legal counsel. They may love poring over these voluminous negotiating records. I myself have gone up, I have read some of these negotiating records. You can become tired of it very quickly.

What really bothers me is we have not spent the time talking about what enhances the security of the United States; what enhances the security of free people. What can we do?

I wonder how many Senators have really spent some time with General Abrahamson or other people in the Department of Defense asking what can we do to protect ourselves? Can we come up with capabilities, if we had an early warning system or notice that, yes, they are launching or preparing to launch? Would a President have an option? Would a President even have an option to try and destroy those incoming missiles? Or is his only option whether or not to retaliate and possibly retaliate before those incoming missiles strike? Launch before we are stricken.

This is not really a very good option. I would not want to be a Commander in Chief and have my only option be retaliation. I, personally, would like to have a defensive option. I would like it, if we had the Department of Defense be for defense, not for more and more offense. I think the mutual assured destruction [MAD] theory, which really evolved in the early sixties, is absurd.

The MAD idea that we are going to have so many offensive weapons and you have so many and we both know it will be so horribly destructive, so let us not engage in nuclear hostilities—that is dangerous. It is dangerous when you have individuals like Qadhafi or Khomeini, who may have in their hands, some day, a nuclear weapon. What kind of option does that give us?

Oh, yes, they can inflict a lot of damage on us and we can inflict more damage on them. So the population will suffer a tremendous pain and penalty because we can retaliate in a manner that is just as bad as theirs.

Would it not be much better to give the Commander in Chief an option of saying: Yes, we understand they have a weapon, but we also have some systems capable of destroying that weapon, destroying that weapon before it does significant damage to

our interests, to the interests of the free people of the world?

We have a lot of responsibility in this body, determining the outcome and course of this issue. I just think it would be a very, very serious mistake if we handicapped those persons conducting the trials, testing the efforts to develop these systems, to place constraints on ourselves that greatly exceed any constraint imposed on the Soviet Union. I think it would be a serious mistake.

So that is the reason why I think this debate has gone on and on. I, for one, will tell my colleagues that I question whether or not we should filibuster.

I think it is important for people to know this issue; to know it is important. I feel confident the President would veto.

If we do not have the votes to strike this language, although I hope that we do, let us hurry up and pass the bill. Let us let the President veto the bill and let us take it up again without it on there. I am confident we have the votes to sustain his veto. The checks and balances can work.

I think, again, the time of bringing forth this issue could not be worse. We are negotiating. There is a short period of time when we can come up with, I think, a significant INF treaty. Possibly we could do more.

I think this language, by constricting our negotiators, by constricting our SDI Program, without getting anything in return at the bargaining table, is a very, very serious mistake.

So I hope that my colleagues will join with me in support of the Warner amendment.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from South Carolina is recognized, Senator HOLLINGS.

Mr. HOLLINGS. Mr. President, in joining the debate at this time, let me express a genuine regret, Mr. President, that no longer is the U.S. Senate the world's most deliberative body.

I was privileged to be here when it truly was deliberative. Debates in those days were both educational as well as inspirational. They educated this Senator.

Indeed, that was the original purpose of the Senate. As Jefferson told Washington, out at Mount Vernon, in rejecting the idea of a unicameral legislature in favor of a bicameral legislative branch, the Senate would serve to cool passions and permit dispassionate decisionmaking. Jefferson said that just as we pour scalding tea into a saucer to cool it before drinking, so the Senate would be a body where the political passions are cooled and tempered, where issues are decided deliberatively for the good of the country.

Likewise, the intrusion of television has decreased the occasions and opportunities for genuine debate among Senators on the floor. Instead, we are either back in our offices watching floor action on TV, or we are on the floor mugging for the cameras. The other day, after I had raised a point with a fellow Senator, instead of answering me he kept looking high up to the corner of the gallery. I asked my assistant, "Where in the world is he looking—who is he talking to?"

They answered, "Don't you know, he is talking to the camera up there."

These days, we couldn't care less what a fellow Senator thinks, sees, hears, or understands. We in the South cannot learn from the North, nor the East from the West. We in rural areas cannot learn the problems and lessons of metropolitan areas. We each retreat into our parochial concerns.

Oh sure, we all agreed on the idea of government in the sunshine. Senators got elected by taking the doors off the offices. But now we have gone too far, we have become sunburned. We have gone to the extreme, to the point where you cannot get Senators' attention—particularly on matters as complex as the ABM Treaty and the strategic defense initiative.

As concerns the debate now at hand, Mr. President, the issue is not whether the administration will have a blank check. The Senator from Georgia and the Senator from Michigan 2 years ago began their backchannel assault on the strategic defense initiative. They have never supported it, Senator LEVIN has actually voted against SDI at critical junctures.

Senators have had to fight tooth and nail, not just in the authorization process, but also through the appropriations process and into the continuing resolution. Never mind the Soviets, it has taken a battle royal just to defend the United States of America here in this august body.

We have heard all this scare talk about boondoggles, costs amounting to $2 trillion, and so on. Yet all that is hoped for and all that could be hoped for at this early stage is research, development, and testing to see whether it makes any sense to even consider deployment.

We can argue ad infinitum about whether SDI will work. But, Mr. President, the best evidence on that score is what Mr. Gorbachev thinks. You might not think it will work, I might not think so, another man might have doubts but Gorbachev is a true believer. Twenty scientists cannot explain to me how a plane flies, much less how we got to the Moon, but we did it. I remember how they ridiculed Kennedy when he said we were going to the Moon.

Likewise, now we have a whole crew of self-styled peace activists. How nice to be wrapped in the mantle of peace in contrast to us warmongers.

Patrick Henry said, "peace, peace, everywhere they cry peace"—200 years ago—"but there is no peace." Well, there is peace today only because of our nuclear deterrent on the one hand, and our superiority of technology on the other hand.

I heard the Senator from Michigan talking about how his amendment was just a modest little limitation. I said, "That cannot be allowed to pass unchallenged." So here I am, and he has beat a retreat.

"If you wish for peace," as George Washington said, "you must prepare for war."

President Kennedy was a young lad in 1940, a senior at Harvard. His father was Ambassador to the Court of St. James. Traveling to Europe that summer of 1940, the question in young J.F.K.'s mind was how, after World War I and in a short 20-year period, the vanquished could have risen to challenge the victor, how the great British Empire could be brought to its knees by an aggressive Germany. Young Kennedy wrote this in his senior thesis and later published it in a book titled "Why England Slept." Kennedy noted that the argument by Germany's neighbors in the 1930's was "don't worry." After all, they said, it is just a manifestation of the humiliation that the Germans suffered in defeat. It is just German macho, nothing to worry about. Sure, they have a bunch of arms, but they haven't any place to use them. Well we soon found out that they knew exactly how and where to use these massive stockpiles of arms. The illusion was shattered by the occupations of the Sudetenland and Poland in 1939.

Today we hear striking similar arguments on the floor of the Senate. They say we need not defend ourselves or match the Soviet buildup. After all, they say, the Soviets will never use those arms.

Here in 1987, America sleeps. The peace activists are fatalistic. They say you cannot defend yourself against a missile attack. But Mr. Gorbachev believes you can. He has spent billions of rubles and 10 years of research. They have a decade-long jump on us. They are far ahead in space stations. Their astronauts stay in space for nearly a year at a time. Meanwhile, we are floundering around trying to play catchup ball amidst an obstacle course of budget constraints.

The half-thinking and wishful thinking of the 1930's is now heard here in the U.S. Senate. Kennedy wrote about it in "Why England Slept."

Likewise I hear echoes of Sir Herbert Lawson on the House of Commons saying that arms bleed social programs. Here in the Senate, they protest that we cannot affort SDI. Yet the difference in the argument is between funding at $3.2 billion or fund-

ing at $4.2 billion. How can we say, in a $3.5 trillion economy, we cannot find an additional $1 billion for research to defend ourselves?

Another shibboleth—Kennedy wrote of it in 1940 and today many in America believe it—is that arms cause war, rather then prevent war. If only we would set the example by laying down our arms and hugging and loving, we would have an international love-in. Give Gorbachev a bear hug. Kiss his glasnost. Whoopee. In this spirit, we have a delegation of Congressmen visiting Krasnoyarsk and pronouncing it harmless.

Any honest Congressman would have acknowledged he didn't know what he was looking at. They are not physicists. In contrast, our Government has action pictures from our overhead satellites. We know exactly what Krasnoyarsk will do and exactly what the violations are.

But the attitude is one of hear no evil, see no evil. We are all swept up with glasnost.

Jerry Ford said, when he was President in 1985, "Do not mention that word détente anymore." Here we are, a decade later, proclaiming whoopee, glasnost, and, after all, arms cause war.

Down in Nicaragua, they said back in 1979 that Danny Ortega was well intentioned, that we should give him aid. So we gave him aid and he kicked us in the groin, he shut down democracy. Now our entire hemisphere is threatened, but we hear the cry, "Leave Nicaragua alone. We don't want to start a war."

Similarly on trade, they fret that we might start a trade war. Well, let the record show that the first bill to pass the National Congress 198 years ago on the Fourth of July 1789 was a tariff bill on some 700 imported items. We started the trade war two centuries ago in order to build the industrial backbone of America.

So how naive can we be today? Do we not read history? Do we not understand anything about the greatness of this land?

Will we get into an arms race by researching SDI? The fact is, we are already in an arms race and we will continue to be in it. Hopefully, we will always be able to best our adversary thanks to our technology. After all, there are not as many Americans as there are Russians or Chinese. SDI is fundamental to our security.

Mr. President, I can tell you here and now that Mr. Gorbachev knows what he is doing. Gorbachev is like Louisiana politicians; they are smart; they don't just wander into office. The Presiding Officer did not get here via a beauty contest. He got here with his wits. But Brezhnev was not that smart. He thought he could terrorize and cow Europe, imposing hegemony with his SS-20 intermediate-range missiles. And he almost succeeded. He almost succeeded. You have got to give President Reagan credit for sticking to his guns, deploying Pershing II's and cruise missiles. Meanwhile, all you heard in Congress was a great hue and cry that we must not deploy the Pershing II's because it would start an arms race. Well, we deployed the Pershings and now we are on the verge of an arms-reduction agreement.

But Mr. Gorbachev with his glasnost and PR skills is infinitely more shrewd and savvy. He is going to win hegemony over Europe by taking away all of our missiles. That will leave only his 144 Red Army divisions against our 40. That is how he is going to do it. He is out to destroy political will.

That is why I voted against the Dole-Warner proposal. After all, if the Soviets can get rid of those missiles with inspections, and thereafter get rid of chemical weapons with inspections, then they have checkmated Maggie Thatcher. Meanwhile, they convert a fertilizer factory and in 6 months' time, they have built up a 10-year supply of chemical arms.

So let us not hear this story about how the Soviets are trying to save money and how their economy is in such bad shape. Let us not think that SDI has brought the Soviets to the bargaining table. They are at that arms control table because they want to be, because they have a strategy to leave the West vulnerable. We never should have toyed at Reykjavik with the idea of complete nuclear disarmament. Conventional arms have never prevented war. Nuclear weapons have.

The United Kingdom knows the value of a nuclear defense. Their conventional deterrent is negligible. But they are a secure nation thanks to their nuclear missiles. That is the only way they are going to be able to protect the British Isles, and they know that. It is no surprise, then, that they have grave misgiving about the current pell-mell rush to repair President Reagan's political standing by crippling Europe's nuclear defense. He will get his summit on arms control, and as a result we are going to sap and demoralize NATO.

Back in 1971, Senator Mansfield and I had a debate in the Senate about bargaining chips. The SALT and ABM negotiators told us categorically, "Never vote for anything as a bargaining chip. If you need it, vote for it. Support it." I repeat, the Soviets are sophisticated these days. They know what they want, what they need. They will recognize a bargaining chip and they simply will disregard it." They have far more sense than we give them credit for and here we talk naively like we are trying to protect a bargaining chip in the current negotiations over an INF Treaty. That is not the issue.

The issue plain and simple is whether we are going to trash the strategic defense initiative program. As I said, the Senator from Michigan started his anti-SDI activism 2 years ago. He persuaded our distinguished colleague, the Senator from Georgia to join him. It is dismaying to me, at this crucial hour in our history, that our leadership is writing this language in the bill: "Funds appropriated or otherwise made available to the Department of Defense during fiscal years 1988 and 1989 may not be obligated or expended to develop or test antiballistic missile systems."

Well, heaven's above, the armed service crowd is supposed to be defending the United States and they say we cannot spend any money to defend ourselves. They know that what is prevailing here will be done by a majority vote rather than a two-thirds vote. They will give us a new treaty. They also know that 2 years from now they can say "Well, we debated that and now that you are ready to do some testing, but our new, unique, restrictive interpretation of the ABM Treaty says you can't test." And, yes, SDI will be eliminated as a bargaining chip. But more important, it will be gone from our security. Look what lies ahead of us. We will have an INF Treaty that disarms Europe. There will be the overwhelming strategic offensive weaponry that already exists in the Soviet Union; there will be a Soviet defensive system in space which they are now beginning to develop. We will see the Soviet lead, we will know the Soviet lead, and we will understand the Soviet lead. And we will be subject to hegemony here in the United States. Who thinks we are going to end the world in order to save Berlin? Who thinks we are going to end the world to save any of those countries which will not defend themselves because they will not appropriate a lot of their GNP because the United States does not have a draft to show its commitment? But by that time, the Soviets will have Finlandized Europe and destroyed the United States' influence. We can then forget about Angola and our commitments in Africa. We can forget about our commitments in the Far East. We can forget about our commitments in this hemisphere because they will have taken over down in Latin America. You know, Mr. President, we cannot even find $100 million, to save freedom in the Americas, I am going to have an amendment on that based on a GAO study which I had conducted. It examines our costs in the Persian Gulf. We can find $100 million to protect oil about 7,000 miles from here, but we cannot find $100 million for freedom in our hemisphere. It is a sad thing. It is a very sad thing that we have to observe.

So the issue here is not all of these little nice sounding words in the defense bill that we want the President to come back and report to us. No, no. They do not want any kind of testing or developing of SDI technology. We will get into more of that debate later on—the successes that we have had in SDI. But I am surprised at the technology developing so far on SDI. It is very encouraging. We ought to appropriate more money to assure its continued success. That would be appreciated, and the validity of the program and various technology can either be proved or disproved.

So the issue is very, very clear here. It is not our distinguished friend Sofaer. I do not know him as well as I should. But what I do know of him, he is a professional. He is not a shield. He is not a political tool to give the administration a politicized decision. He is proud of his profession. He is proud as a former judge of the Federal courts, and he has come to the Department of State, and was given a charge. He has fulfilled that charge in a very intelligent and thorough fashion. He realized his staff had made a halfway report. The Senators from Michigan and Georgia continue to attribute to him what he corrected. And Judge Sofaer has done his job in a professional fashion.

Various Senators and I have been up on the fourth floor of the Capitol listening, learning, reading, and studying the record of the treaty. I can tell you here and now that the argument is erudite and is professional as Sofaer is, and his presentation is not the Sofaer-Nunn controversy because I know who wins on that score. Senator NUNN is popular and respected in this body, and the subject is complicated. And it is too easy to roll over and say SAM spent 3 days on this thing, presented it to the body. My colleagues tell me "I know what you are saying, but I am going to stick with the chairman of the Armed Services Committee."

So that would end the entire debate. I am afraid that is the point where we are because we cannot get, with live quorums and time given, the attention of the body. They are tied up in trade, budget, debt limit, and all the other particular bills, and in markups in the Appropriations Committee. So it is very, very easy to take this involved matter and—just as with the Judge Bork nomination—there is a parade that has already passed town. We will vote with the chairman of the Armed Services.

But I say most seriously this is a dark day for the defenses of our country. Look at what people are saying. Take Paul Nitze, whom I met I think as Secretary of the Navy for Lyndon Johnson. Here is a chief negotiator saying that you can test and develop SDI technology. Then there is Ambassador Smith saying that you can test and develop. There is General Allison saying that you can test and develop. There is Harold Brown having written that you can test and develop. There is Secretary of State Rogers at the time saying you can test and develop. There is the chairman of the Joint Chiefs of Staff, Admiral Moorer, saying you can test and develop. There is General Palmer, and he is testifying—which incidentally was left out of the Nunn presentation—saying you can test and develop the system. All of those witnesses and all of the subsequent practices go out of the window, and the Senator from Georgia is ahead because the Members won't come and listen.

I and the anti-SDI crowd won't debate. But they are good at confusing. Senator NUNN comes and says exotics. If you can find the word "exotics" in this treaty, I will jump off the dome. Now we will make a second jump off the dome. I am getting a little bit more assured because they cannot show me otherwise. I do not mind if I am wrong. Just tell me, and we will all quietly go away.

But the other strategy here is, as the Senator said on yesterday, to confuse fixed land-based and mobile systems. And the inference is from the Senator from Georgia in this confusion, that article II controls fixed land-based and article V controls mobile-based.

If we can find fixed land-based and if we can find the mobile-based systems, treated in that fashion in this treaty, I will jump off the dome.

Mr. NUNN. Will the Senator yield? I do not contend, if I may, to my friend from South Carolina, that article II controls fixed land-based. Article II is only the definitional section. It does not differentiate between fixed land-based and mobile, sea-based and air-based. Article V defines what is limited for testing and development purposes, and article V excludes fixed ground-based.

Mr. HOLLINGS. How does it exclude it? I have the treaty.

Mr. NUNN. If the Senator will read article V——

Mr. HOLLINGS. I read article V.

Mr. NUNN. I do not have it in front of me. But if the Senator will read it out loud.

Mr. HOLLINGS. All right. We will read it out loud for the distinguished chairman. Article V says each party undertakes not to develop, test or deploy the ABM systems or components which are sea-based, air-based, space-based, mobile land-based.

Mr. NUNN. That is right. The Senator just made it clear that it does not include fixed land-based. That was purposeful.

Mr. HOLLINGS. That's because fixed land-based systems are those current in 1972—defined in article II—and article V is tied to variants of those. Agreed statement D deals with futuristic systems.

Mr. NUNN. It does not say fixed land-based. Why does it say mobile land-based? Because it is fixed land-based. That is what the heart of article V means. It excluded fixed land-based but the United States wanted to be able to test and develop our fixed land-based laser systems. That was one of the goals President Nixon gave to the negotiators. So in article V we very cautiously and very carefully excluded fixed land-based.

The Senator, if he reads that, read it again and again, he will see fixed land-based is excluded there because we wanted to test and develop the land-based and we retain that right. We still retain that right.

I thank my friend for yielding.

Mr. HOLLINGS. I thank the chairman for fashioning the debate his way. As I said yesterday he confuses by throwing in ground-based exotics, not mobile, and fixed land-based. The issue is current versus future—plain and simple.

The entire argument and I am going to elaborate again, was present and future, not fixed land-based. Article II says that for the purposes of this treaty—and this defines the ABM systems—and ABM system is a system to counter strategic ballistic missiles or their elements in flight trajectory currently—currently—consisting of talking about the present 1972 as distinguished from agreed statement D, which treats the future—ABM interceptor missiles, which are interceptor missiles constructed and deployed for an ABM role or a type tested by an ABM mode, ABM launchers, which are launchers constructed and deployed for launching ABM interceptor missiles, and ABM radars, which are radars constructed and deployed for an ABM role or of a type tested in an ABM mode.

Paragraph 2 of article II further defines the ABM system components listed in paragraph 1 of this article as including those which are (a) operational, (b) under construction (c) undergoing testing, (d) undergoing overhaul, repair or conversion, or (e) mothballed—which are currently operational, currently under construction, currently undergoing testing, currently undergoing overhaul, repair, or conversion, or currently mothballed.

Now that we have gotten away from exotics, we have gotten to the crux of the argument. So let us see whether the negotiations were talking about fixed land-based as compared to mobile.

It is clear that the U.S. delegation was instructed, "Don't agree to flexibility for the future. We want a controlled future."

The entire argument was whether or not the future versus the current

could be controlled—it was not the issue of mobile-based versus land-based.

We can look at the negotiating record made at the time, because this is extremely important. The Senator from Georgia says agreement was reached on September 15, 1971 whereby future systems were controlled forever. It is in the record, and I want to get the exact quote. I quote Senator NUNN:

The negotiating record shows that the parties explicitly agreed that the restrictions on testing and deployment of mobile space-based ABMs applied to any type of present or future component of ABM systems, and this included exotics.

That was subsequent to the paragraph where he was talking about the debate they had as evidenced by the negotiating record with respect to United States and Soviet decisions on articles VI between September 15 and September 24. It is headed: "Sofaer finds that parties fail to agree on limiting exotics," in this article.

Pay close attention. Senator NUNN says,

Oh, no, that is wrong. The negotiating record said that those restrictions applied to any type of present or future components of ABM systems.

That was on September 15, and that is the distinguished chairman's categorical statement on which he bases his argument. I am going to show you the categorical U.S. memorandum of the negotiating record plus the statements made at that time.

I have looked at the record and found out first that the debate on future systems begins before September 15.

(Mr. CONRAD assumed the chair.)

On August 17, 1971, Harold Brown, one of the U.S. negotiators, and later Secretary of Defense is quoted from a U.S. ABM staff memorandum as follows:

Had we made it clear that in the first paragraph we were talking about a ban on deployment, but not on the development and testing of future kinds of systems.

He was talking about future kinds of systems, using the word "future" and not fixed land based.

Academician Shchukin of the Soviet staff said that if one could not point to specific systems in or near development status, the politicians and diplomats would probably not be interested in possibilities.

He was trying to say, "Tell me what you are talking about."

On August 24, again quoting from that record:

The sides had achieved an understanding that limitation should cover such systems of ABM defense as radars, launchers, and ABM interceptor missiles. . . . In other words, the treaty should have for its subject ABM systems which could be technically described and determined . . .

Remember the Nunn language, in his presentation, about inferentially, generically describing and implicitly inferring—I am going to get back to that. Remind me, please.

Here is Shchukin saying that it has to be technically described and determined.

"What did the U.S. have in mind in speaking of such systems as devices?"

That is the quotation from the U.S. memorandum, the negotiating record, on Shchukin, in 1971.

Here's Ambassador Smith, on August 27: "If future systems were not covered, uncertainties would increase."

Ambassador Smith was carrying out his charge, in charge of the negotiating team. He said, "Let us cover the future."

Harold Brown, on August 27, with regard to U.S. article VI—it later became V, indicated that—

Our objective in this Article 6 is to establish a commitment that neither side will deploy ABM systems—including future types of ABM systems—which might not use ABM interceptor missiles, ABM launchers, or ABM radars . . .

Again, he was trying to include future systems. He was not talking about the difference between fixed land-based and mobile systems. This is a straw man they put up and they blamed Sofaer for it. He is not responsible for it, because that is not the treaty and that is not in the record and that is not even in the treaty. The argument was over current and future. That was the entire argument.

On August 31, 1971, General Trusov:

A provision of the kind which the U.S. side has proposed would add an undesirable element of vagueness to our ABM agreement . . .

Remember what I said yesterday, that Garthoff said, "Be precise." Remember when I said Ambassador Gerard Smith said in his book it was precise. Here they are arguing a year before ratification. We ratified the treaty in August 1972, and in August 1971, when joining in this ABM Treaty, the Soviets said, "Let us not be vague."

These were lawyers. These were very careful draftsmen. They did not want vagueness, and they were not talking about fixed, land-based versus mobile-based.

I quote what Senator NUNN said yesterday. He said:

Because the Senator from South Carolina, as Judge Sofaer did to begin with in this deliberations—and he has clarified a lot of that since then—fails to distinguish between ground-based and mobile-space-air testing. Everyone agrees—and that was an American position in the talks all along—that we were going to protect our ability to test exotics as long as they were ground-based exotics, not mobile, not space, not air. This record is so confusing because people do not distinguish between the two.

If you want to study this record as thoroughly as I have, do not get confused by Senator NUNN's gymnastics.

I quote Senator NUNN again:

There is no doubt that exotics can be tested, but it is only a certain kind of exotics, and that is mobile, air, and space, that cannot.

He forms a treaty that never was ratified. You cannot find that in this treaty.

Mr. President, I ask unanimous consent that the full text of the treaty be printed at this point in the RECORD.

There being no objection, the treaty was ordered to be printed in the RECORD, as follows:

TREATY BETWEEN THE UNITED STATES OF AMERICA AND THE UNION OF SOVIET SOCIALIST REPUBLICS ON THE LIMITATION OF ANTI-BALLISTIC MISSILE SYSTEMS

[Note—Signed at Moscow May 26, 1972; Ratification advised by U.S. Senate August 3, 1972; Ratified by U.S. President September 30, 1972; Proclaimed by U.S. President October 3, 1972; Instruments of ratification exchanged October 3, 1972; Entered into force October 3, 1972.]

The United States of America and the Union of Soviet Socialist Republics, hereinafter referred to as the Parties,

Proceeding from the premise that nuclear war would have devastating consequences for all mankind,

Considering that effective measures to limit anti-ballistic missile systems would be a substantial factor in curbing the race in strategic offensive arms and would lead to a decrease in the risk of outbreak of war involving nuclear weapons,

Proceeding from the premise that the limitation of anti-ballistic missile systems, as well as certain agreed measures with respect to the limitation of strategic offensive arms, would contribute to the creation of more favorable conditions for further negotiations on limiting strategic arms,

Mindful of their obligations under Article VI of the Treaty on the Non-Proliferation of Nuclear Weapons.

Declaring their intention to achieve at the earliest possible date the cessation of the nuclear arms race and to take effective measures toward reductions in strategic arms, nuclear disarmament, and general and complete disarmament,

Desiring to contribute to the relaxation of international tension and the strengthening of trust between States,

Have agreed as follows:

ARTICLE I

1. Each party undertakes to limit anti-ballistic missile (ABM) systems and to adopt other measures in accordance with the provisions of this Treaty.

2. Each Party undertakes not to deploy ABM systems for a defense of the territory of its country and not to provide a base for such a defense, and not to deploy ABM systems for defense of an individual region except as provided for in Article III of this Treaty.

ARTICLE II

1. For the purpose of this Treaty an ABM system is a system to counter strategic ballistic missiles or their elements in flight trajectory, currently consisting of:

(a) ABM interceptor missiles, which are interceptor missiles constructed and deployed for an ABM role, or of a type tested in an ABM mode;

(b) ABM launchers, which are launchers constructed and deployed for launching ABM interceptor missiles; and

(c) ABM radars, which are radars constructed and deployed for an ABM role, or of a type tested in an ABM mode.

2. The ABM system components listed in paragraph 1 of this Article include those which are:

(a) operational;

(b) under construction;

(c) undergoing testing;

(d) undergoing overhaul, repair or conversion; or

(e) mothballed.

ARTICLE III

Each Party undertakes not to deploy ABM systems or their components except that:

(a) within one ABM system deployment area having a radius of one hundred and fifty kilometers and centered on the Party's national capital, a Party may deploy: (1) no more than one hundred ABM launchers and no more than one hundred ABM interceptor missiles at launch sites, and (2) ABM radars within no more than six ABM radar complexes, the areas of each complex being circular and having a diameter of no more than three kilometers; and

(b) within one ABM system deployment area having a radius of one hundred and fifty kilometers and containing ICBM silo launchers, a Party may deploy: (1) no more than one hundred ABM launchers and no more than one hundred ABM interceptor missiles at launch sites, (2) two large phased-array ABM radars comparable in potential to corresponding ABM radars operational or under construction on the date of signature of the Treaty in an ABM system deployment area containing ICBM silo launchers, and (3) no more than eighteen ABM radars each having a potential less than the potential of the smaller of the above-mentioned two large phased-array ABM radars.

ARTICLE IV

The limitations provided for in Article III shall not apply to ABM systems or their components used for development or testing, and located within current or additionally agreed test ranges. Each Party may have no more than a total of fifteen ABM launchers at test ranges.

ARTICLE V

1. Each Party undertakes not to develop, test, or deploy ABM systems or components which are sea-based, air-based, space-based, or mobile land-based.

2. Each Party undertakes not to develop, test, or deploy ABM launchers for launching more than one ABM interceptor missile at a time from each launcher, not to modify deployed launchers to provide them with such a capability, not to develop, test, or deploy automatic or semi-automatic or other similar systems for rapid reload of ABM launchers.

ARTICLE VI

To enhance assurance of the effectiveness of the limitations on ABM systems and their components provided by the Treaty, each Party undertakes:

(a) not to give missiles, launchers, or radars, other than ABM interceptors missiles, ABM launchers, or ABM radars, capabilities to counter strategic ballistic missiles or their elements in flight trajectory, and not to test them in an ABM mode; and

(b) not to deploy in the future radars for early warning of strategic ballistic missile attack except at locations along the periphery of its national territory and oriented outward.

ARTICLE VII

Subject to the provisions of this Treaty, modernization of ABM systems or their components may be carried out.

ARTICLE VIII

ABM systems or their components in excess of the numbers or outside the areas specified in this Treaty, as well as ABM systems or their components prohibited by this Treaty, shall be destroyed or dismantled under agreed procedures within the shortest possible agreed period of time.

ARTICLE IX

To assure the viability and effectiveness of this Treaty, each Party undertakes not to transfer to other States, and not to deploy outside its national territory, ABM systems or their components limited by this Treaty.

ARTICLE X

Each Party undertakes not to assume any international obligations which would conflict with this Treaty.

ARTICLE XI

The Parties undertake to continue active negotiations for limitations on strategic offensive arms.

ARTICLE XII

1. For the purpose of providing assurance of compliance with the provisions of this Treaty, each Party shall use national technical means of verification at its disposal in a manner consistent with generally recognized principles of international law.

2. Each Party undertakes not to interfere with the national technical means of verification of the other Party operating in accordance with paragraph 1 of this Article.

3. Each Party undertakes not to use deliberate concealment measures which impede verification by national technical means of compliance with the provisions of this Treaty. This obligation shall not require changes in current construction, assembly, conversion, or overhaul practices.

ARTICLE XIII

1. To promote the objectives and implementation of the provisions of this Treaty, the Parties shall establish promptly a Standing Consultative Commission, within the framework of which they will:

(a) consider questions concerning compliance with the obligations assumed and related situations which may be considered ambiguous;

(b) provide on a voluntary basis such information as either Party considers necessary to assure confidence in compliance with the obligations assumed;

(c) consider questions involving unintended interference with national technical means of verification;

(d) consider possible changes in the strategic situation which have a bearing on the provisions of this Treaty;

(e) agree upon procedures and dates for destruction or dismantling of ABM systems or their components in cases provided for by the provisions of this Treaty;

(f) consider, as appropriate, possible proposals for further increasing the viability of this Treaty; including proposals for amendments in accordance with the provisions of this Treaty;

(g) consider, as appropriate, proposals for further measures aimed at limiting strategic arms.

2. The Parties through consultation shall establish, and may amend as appropriate, Regulations for the Standing Consultative Commision governing procedures, composition and other relevant matters.

ARTICLE XIV

1. Each Party may propose amendments to this Treaty. Agreed amendments shall enter into force in accordance with the procedures governing the entry into force of this Treaty.

2. Five years after entry into force of this Treaty, and at five-year intervals thereafter, the Parties shall together conduct a review of this Treaty.

ARTICLE XV

1. This Treaty shall be of unlimited duration.

2. Each Party shall, in exercising its national sovereignty, have the right to withdraw from this Treaty if it decides that extraordinary events related to the subject matter of this Treaty have jeopardized its supreme interests. It shall give notice of its decision to the other Party six months prior to withdrawal from the Treaty. Such notice shall include a statement of the extraordinary events the notifying Party regards as having jeopardized its supreme interests.

ARTICLE XVI

1. This Treaty shall be subject to ratification in accordance with the constitutional procedures of each Party. The Treaty shall enter into force on the day of the exchange of instruments of ratification.

2. This Treaty shall be registered pursuant to Article 102 of the Charter of the United Nations.

Done at Moscow on May 26, 1972, in two copies, each in the English and Russian languages, both texts being equally authentic.

For the United States of America:

RICHARD NIXON,
President of the United States of America.

For the Union of Soviet Socialist Republics:

L.I. BREZHNEV,
General Secretary of the Central Committee of the CPSU.

AGREED STATEMENTS, COMMON UNDERSTANDINGS, AND UNILATERAL STATEMENTS REGARDING THE TREATY BETWEEN THE UNITED STATES OF AMERICA AND THE UNION OF SOVIET SOCIALIST REPUBLICS ON THE LIMITATION OF ANTI-BALLISTIC MISSILES

1. AGREED STATEMENTS

The document set forth below was agreed upon and initiated by the Heads of the Delegations on May 26, 1972 (letter designations added);

Agreed statements regarding the treaty between the United States of America and the Union of Soviet Socialist Republics on the limitation of anti-ballistic missile system.

[A] The Parties understand that, in addition to the ABM radars which may be deployed in accordance with subparagraph (a) of Article III of the Treaty, those non-phased-array ABM radars operation on the date of signature of the Treaty within the ABM system deployment area for defense of the national capital may be retained.

[B] The Parties understand that the potential (the product of mean emitted power in watts and antenna area in square meters) of the smaller of the two large phased-array ABM radars referred to in subparagraph (b) of Article III of the Treaty is considered for purpose of the Treaty to be three million.

[C] The Parties understand that the center of the ABM system deployment area

centered on the national capital and the center of the ABM system deployment area containing ICBM silo launchers for each Party shall be separated by no less than thirteen hundred kilometers.

[D] In order to insure fulfillment of the obligation not to deploy ABM systems and their components except as provided in Article III of the Treaty, the Parties agree that in the event ABM systems based on other physical principles and including components capable of substituting for ABM interceptor missiles, ABM launchers, or ABM radars are created in the future, specific limitations on such systems and their components would be subject to discussion in accordance with Article XII and agreement in accordance with Article XIV of the Treaty.

[E] The Parties understand that Article V of the Treaty includes obligations not to develop, test or deploy ABM interceptor missiles for the delivery by each ABM interceptor missile of more than one independently guided warhead.

[F] The Parties agree not to deploy phased-array radars having a potential (the product of mean emitted power in watts and antenna area in square meters) exceeding three million, except as provided for in Articles III, IV and VI of the Treaty, or except for the purposes of tracking objects in outer space or for use as national technical means of verification.

[G] The Parties understand that Article IX of the Treaty includes the obligation of the US and the USSR not to provide to other States technical descriptions or blue prints specially worked out for the construction of ABM systems and their components limited by the Treaty.

2. COMMON UNDERSTANDING

Common understanding of the Parties on the following matters was reached during the negotiations.

A. Location of ICBM Defenses—The U.S. Delegation made the following statement on May 26, 1972:

"Article III of the ABM Treaty provides for each side one ABM system deployment area centered on its national capital and one ABM system deployment area containing ICBM silo launchers. The two sides have registered agreement on the following statement: "The Parties understand that the center of the ABM system deployment area centered on the national capital and the center of the ABM system deployment area containing ICBM silo launchers for each Party shall be separated by no less than thirteen hundred kilometers." In this connection, the U.S. side notes that its ABM system deployment area for defense of ICBM silo launchers, located west of the Mississippi River, will be centered in the Grand Forks ICBM silo launcher deployment area. (See Agreed Statement [C].)"

B. ABM Test Ranges—The U.S. Delegation made the following statement on April 26, 1972:

"Article IV of the ABM Treaty provides that "the limitations provided for in Article III shall not apply to ABM systems or their components used for development or testing, and located within current or additionally agreed test ranges." We believe it would be useful to assure that there is no misunderstanding as to current ABM test ranges. it is our understanding that ABM test ranges encompass the area within which ABM components are located for test purposes. The current U.S. ABM test ranges are at White Sands, New Mexico, and at Kwajalein Atoll, and the current Soviet ABM test range is near Sary Shagan in Kazakhstan. We consider that non-phased array radars of types used for range safety or instrumentation purposes may be located outside of ABM test ranges. We interpret the reference in Article IV to "additionally agreed test ranges" to mean that ABM components will not be located at any other test ranges without prior agreement between our Governments that there will be such additional ABM test ranges."

On May 5, 1972, the Soviet Delegation stated that there was a common understanding on what ABM test ranges were, that the use of the types of non-ABM radars for range safety or instrumentation was not limited under the Treaty, that the reference in Article IV to "additionally agreed" test ranges was sufficiently clear, and that national means permitted identifying current test ranges.

C. Mobile ABM Systems—On January 29, 1972, the U.S. Delegation made the following statement:

"Article V(1) of the Joint Draft Text of the ABM Treaty includes an undertaking not to develop, test, or deploy mobile land-based ABM systems and their components. On May 5, 1971, the U.S. side indicated that, in its view, a prohibition on deployment of mobile ABM systems and components would rule out the deployment of ABM launchers and radars which were not permanent fixed types. At that time, we asked for the Soviet view of this interpretation. Does the Soviet side agree with the U.S. side's interpretation put forward on May 5, 1971?"

On April 13, 1972, the Soviet Delegation said there is a general common understanding on this matter.

D. Standing Consultative Commission—Ambassador Smith made the following statement on May 22, 1972:

"The United States proposes that the sides agree that, with regard to initial implementation of the ABM Treaty's Article XII on the Standing Consultative Commission (SCC) and of the consultation Articles to the Interim Agreement on offensive arms and the Accidents Agreement,[1] agreement establishing the SCC will be worked out early in the follow-on SALT negotiations; until that is completed, the following arrangements will prevail: when SALT is in session, any consultation desired by either side under these Articles can be carried out by the two SALT Delegations; when SALT is not in session, ad hoc arrangements for any desired consultations under these Articles may be made through diplomatic channels."

Minister Semenov replies that, on an ad referendum basis, he could agree that the U.S. statement corresponded to the Soviet understanding.

E. Standstill—On May 6, 1972, Minister Semenov made the following statement:

"In an effort to accommodate the wishes of the U.S. side, the Soviet Delegation is prepared to proceed on the basis that the two sides will in fact observe the obligations of both the Interim Agreement and the ABM Treaty beginning from the date of signature of these two documents."

In reply, the U.S. Delegation made the following statement on May 20, 1972:

"The U.S. agrees in principle with the Soviet statement made on May 6 concerning observance of obligations beginning from date of signature but we would like to make clear our understanding that this means that, pending ratification and acceptance, neither side would take any action prohibited by the agreements after they had entered into force. This understanding would continue to apply in the absence of notification by either signatory of its intention not to proceed with ratification or approval."

The Soviet Delegation indicated agreement with the U.S. statement.

3. UNILATERAL STATEMENTS

The following noteworthy unilateral statements were made during the negotiations by the United States Delegation:

A. Withdrawal from the ABM Treaty—On May 9, 1972, Ambassador Smith made the following statement:

"The U.S. Delegation has stressed the importance the U.S. Government attaches to achieving agreement on more complete limitations on strategic offensive arms, following agreement on an ABM Treaty and on an Interim Agreement on certain measures with respect to the limitation of strategic offensive arms. The U.S. Delegation believes that an objective of the follow-on negotiations should be to constrain and reduce on a long-term basis threats to the survivability of our respective strategic retaliatory forces. The USSR Delegation has also indicated that the objectives of SALT would remain unfulfilled without the achievement of an agreement providing for more complete limitations on strategic offensive arms. Both sides recognize that the initial agreements would be steps toward the achievement of more complete limitations on strategic arms. If an agreement providing for more complete strategic offensive arms limitations were not achieved within five years, U.S. supreme interests could be jeopardized. Should that occur, it would constitute a basis for withdrawal from the ABM Treaty. The U.S. does not wish to see such a situation occur, nor do we believe that the USSR does. It is because we wish to prevent such a situation that we emphasize the importance the U.S. Government attaches to achievement of more complete limitations on strategic offensive arms. The U.S. Executive will inform the Congress, in connection with Congressional consideration of the ABM Treaty and the Interim Agreement, of this statement of the U.S. position."

B. Tested in ABM Mode—On April 7, 1972, the U.S. Delegation made the following statement.

"Article II of the Joint Text Draft uses the term "tested in an ABM mode," in defining ABM components, and Article VI includes certain obligations concerning such testing. We believe that the sides should have a common understanding of this phrase. First, we would note that the testing provisions of the ABM Treaty are intended to apply to testing which occurs after the date of signature of the Treaty, and not to any testing which may have occurred in the past. Next, we would amplify the remarks we have made on this subject during the previous Helsinki phase by setting forth the objectives which govern the U.S. view on the subject, namely, while prohibiting testing of non-ABM components for ABM purposes: not to prevent testing of ABM components, and not to prevent testing of non-ABM components for non-ABM purposes. To clarify our interpretation of "tested in an ABM mode," we note that we would consider a launcher, missile or radar to be "tested in an ABM mode" if, for example, any of the following events occur: (1) a launcher is used to launch an ABM inter-

[1] See Article 7 of the Agreement to Reduce the Risk of Outbreak of Nuclear War Between the United States of America and the Union of Soviet Socialist Republics, signed Sept. 30, 1971.

ceptor missile, (2) an interceptor missile is flight tested against a target vehicle which has a flight trajectory with characteristics of a strategic ballistic missile flight trajectory, or is flight tested in conjunction with the test of an ABM interceptor missile or an ABM radar at the same test range, or is flight tested to an altitude inconsistent with interception of targets against which air defenses are deployed, (3) a radar makes measurements on a cooperative target vehicle of the kind referred to in item (2) above during the reentry portion of its trajectory or makes measurements in conjunction with the test of an ABM interceptor missile or an ABM radar at the same test range. Radars used for purposes such as range safety or instrumentation would be exempt from application of these criteria."

C. No-Transfer Article of ABM Treaty—On April 18, 1972, the U.S. Delegation made the following statement:

"In regard to this Article [IX], I have made a brief and I believe self-explanatory statement to make. The U.S. side wishes to make clear that the provisions of this Article do not set a precedent for whatever provision may be considered for a Treaty on Limiting Strategic Offensive Arms. The question of transfer of strategic offensive arms is a far more complex issue, which may require a different solution."

D. No Increase in Defense of Early Warning Radars—On July 28, 1970, the U.S. Delegation made the following statement:

"Since Hen House radars [Soviet ballistic missile early warning radars] can detect and track ballistic missile warheads at great distances, they have a significant ABM potential. Accordingly, the U.S. would regard any increase in the defenses of such radars by surface-to-air missiles as inconsistent with an agreement."

Mr. HOLLINGS. Mr. President, I thing it is good that you can see the treaty and hear from the record because you can see the entire debate was between current and future.

I want to go a little further. On September 8, 1971, Karpov told him it was wrong to limit means not known to anyone. You see, as to future systems, they did not know what they were. They were differentiating between fixed land-based and mobile. They were thinking of lasers, particle beams, and fixed-base stations.

But the issue was not fixed land-based versus mobile whatever—absolutely not. He was talking about things he did not know, and you can tell throughout the debate that the Soviet team was trying to get to the point under the U.S. would be definative in its statement.

They said; "We are not going to cover those uncertainties; tell us what you are talking about."

Karpov said he believed it was wrong to limit means not known to anyone. Up to now, he noted, the subject of our discussions was limitations on concrete and specific ABM systems which might exist and could be verified by national means. We should adhere to this subject in the future too. He noted that appropriate procedures for handling these questions are envisaged. The Standing Consultative Commission would consider additions and amendments.

And that is what they finally put in agreed statement D.

Graybeal on that same date, September 8, 1971, says—well, he felt also you can go ahead. He felt that an operative article indicating clearly the objectives with regard to future systems would be far more useful than merely referring these questions to the Standing Commission.

He still is trying hard on behalf of the United States and trying to get the future included.

On September 13, 1971 Col. Fedenko reiterated the standard Soviet arguments against including any general provisions on future undefined ABM systems.

That is not fixed land based versus mobile. That is a whole big bollix of argument here that just does not pertain. There is no evidence for that.

Admittedly they use that expression from time to time. The military comes up and still talks in these military kinds of terms. But the great thing in issue between the negotiating teams was whether future systems could be controlled, and our team was charged to control the future, and the Russians were saying absolutely not and they succeeded.

On September 17—after the September 15 date that Senator NUNN said settled the issue—Ambassador Smith had the feeling that the Soviet position on article II reflected a desire that nothing be done to prejudice the Soviet position on the issue treated in paragraph 1 of article VI which concerned future systems.

The Soviet negotiator, Semenov, on that same date, stated that ". . . bearing in mind that inclusion of uncertainties in an agreement would surely lead to all sorts of misunderstandings in the future," . . . with reference to the U.S. position on article VI, ". . . where we were trying to control the future, . . ." he would not care to say any more. This problem would be kept in his field of vision for the next Vienna phase.

Then on September 20, the U.S. negotiator Garthoff, stated that there would remain seven points of difference, including a provision to cover future "unconventional" ABM systems.

They talk of unconventional. It was not fixed land-based and mobile. That is not the argument here that Senators LEVIN and NUNN put out. No. We should not bite on that bait whatsoever. It concerns future systems versus current systems. That was the whole debate and that is on September 20 when Senator NUNN said it was all settled on September 15.

And Shchukin on November 30, the Soviet side, and I quote from the United States negotiating memorandum, "The Soviet side cannot recognize as well-founded the proposal of the United States involving an obligation not to deploy ABM systems using devices other than . . . missiles, launchers, radars. The subject of a treaty could only be a specific and concrete limitation on ABM systems."

And so there you were. I could also include the statements from memoranda of December 7, 10, 14. Paul Nitze noted in connection with Shchukin's comments on future systems that the Soviet had emphasized the inappropriateness—of this subject for treaty language.

On December 14—3 months after Senator NUNN said it was settled in his presentation, the scholarly presentation—the negotiators are still arguing. Semenov said "Although Dr. Brown said the question of future ABM systems, which do not include launchers, radars and interceptors . . . I would like to ask what this is all about in concrete terms." This is Semenov, the Soviet negotiator. "In what does the U.S. side see a danger in the absence of a provision on this account in the treaty?" he asked.

I quote again, "If these systems cannot be defined now"—Senator NUNN defines them—here is a negotiator, the Soviet one, and I quote, "If these systems cannot be defined now, except that they are not something known today, and, at the same time, the draft treaty includes a number of clear limitations and constraints not to deploy territorial ABM systems, not to give the capability for rapid reload, et cetera, is it not sufficient to have such limitations?"

Quoting still from Semenov, "To be sure, including in the treaty a provision covering something that is not known cannot be justified by any considerations, and therefore this proposition cannot be the subject of a treaty."

They would not agree to future systems. They just would not agree. We tried all that fall period. You remember the President went over to Europe, I think it was early in 1972. Henry Kissinger was there and they worked over the SALT I Treaty overnight. They worked to 5 o'clock in the morning.

On December 17, Garthoff, our man said, and I quote from the staff memorandum, "On future ABM systems, I suggested to Kishilov the possibility of a new approach to meeting the issue. Perhaps it would be possible to have a clear and explicit understanding, for example, in an agreed minute, that neither side would deploy a future ABM system or components without prior consultation and mutual agreement in the Standing Consultative Commission.

Now you see how they are beginning to come around to agreed statement D, that they finally agreed on in May. They started thinking in these terms,

having put it off all fall, in December 1971, and they sealed it in May 1972.

Garthoff said again on December 17, "Grinevsky referred to the conversation I had had that morning with Kishilov concerning a possible alternative approach to handling future ABM systems . . . handling these matters through the Standing Consultative Commission, rather than through explicit treaty provisions, offered a possible resolution to our differences."

Then, Mr. President, I am not going through the entire thing—I will put it all in the RECORD here.

But the December 20, U.S. staff memorandum quotes Semenov as follows:

Suppose that the draft treaty . . . had a provision on limiting systems other than those now known which use interceptors and launchers . . . such a provision would create the grounds for endless arguments, uncertainties. . . . He asked if the goal of the two delegations isn't just the opposite, that is to reach agreement on limiting known ABM systems. . . . Certainly such limitations on known ABM systems constitute a factor for relaxing international tension and curbing the race in strategic arms and limiting them. . . . How then could an ABM Treaty include a provision about whose content the sides do not have the vaguest notion?

Oh, oh under Senator NUNN they had a notion, it was fixed land-base versus mobile. That is absolute nonsense. These negotiators said "We just don't know whatever they would come up. How can we limit the unknown?"

The Soviets demurred.

I quote still from Semenov:

The sides cannot and must not engage in discussion of questions not known to anyone. The task faced by the two sides is to erect reliable barriers against deployment of known ABM components in excess of the levels defined by the ABM Treaty. . . . If it should appear necessary to supplement the ABM Treaty by a provision prohibiting or limiting other ABM components in addition to those now known, this can be done in accordance with the procedures provided for in provision on review.

And I will jump now to January 11, 1972, to save the time of the Senate.

January 11, 1972. Grinevsky said that the treaty referred to ABM systems which were defined in Article II. It could not deal with unknown other systems.

Garthoff challenged this interpretation on two grounds: first, the treaty dealt not only with ABM systems compromising components identified in Article II, but all ABM systems;

That is what he was trying to contend.

Second, the issue did not concern "other" systems but rather future ABM systems . . . .

See, even our own negotiators were talking about future. They were not talking about fixed land-based versus mobile.

I am quoting again from Garthoff on January 11:

However, what Garthoff was referring to—and the U.S. was particularly concerned about—was precisely ABM systems and components of some new kind in the future. Garthoff repeated his reference to laser ABM interceptors as an example.

See, now fixed land-based, not mobile. After the Senator from Georgia said it was all agreed to back in September and that is what we should deal with in fixed land-based and mobile. Here in January, our own negotiator is talking about laser ABM interceptors. That is what Senator Goldwater asked General Palmer. That is what was in the Armed Service report. That is what we were talking about.

Grinevsky, on January 14, the statement reads—and, let me read it exactly.

January 14, 1972, Grinevsky produced a Soviet draft, based closely upon (but not identical with) the statement made in the meeting that morning by Academician Shchukin. The statement read:

"With a view to ensuring the implementation of the provisions contained in Articles I and III of the Treaty on the limitation of ABM systems, the Parties agree that in the event of the emergence.

They were talking about the emergence and they intermittently used the word "create" where we would use "test and development."

In the event of the emergence of ABM systems based on other principles questions of their limitation may be discussed further in accordance with Articles XIII and XIV of the ABM Treaty."

And then from General Allison, on February 1, 1972:

We also appear to agree that substituting a different component for one of these three in the future would result in a "future" or "other" ABM system. It seems that . . . our Delegations should be able to agree on a set of words for the interpretive statement.

Mr. President, I know I have belabored the Senate, but you have to be specific. We are asked to interpret the treaty and this bill gives us a new treaty to ratify with this little amendment. And it is an awfully, awfully dangerous precedent and dangerous to the security of the country.

Let me read one final quotation from Garthoff, on February 1. You can see how he got to agreed statement D.

February 1, 1972. Garthoff: Grinevsky called to say that he believed his Delegation could accept the proposal if the words "based on other physical principles and" were included before the phrase "including components."

So we got to Agreed Statement D to the treaty, and I will read it:

In order to insure fulfillment of the obligation not to deploy ABM systems and their components except as provided in Article III of the Treaty, the Parties agree that in the event ABM systems based on other physical principles and including components capable of substituting for ABM interceptor missiles, ABM launchers, or ABM radars are created in the future, specific limitations on such system and their components would be subject to discussion in accordance with Article XIII and agreement in accordance with Article XIV of the Treaty.

Mr. President, I ask unanimous consent that all of the references herein be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

FUTURE ABM SYSTEMS

Soviet Rejections/Questions From Negotiations Record—Regarding Future ABM Systems Leading to Development of Agreed Statement D.

1. August 17, 1971. Brown: Had we made it clear that in the first paragraph we were talking about a ban on deployment, but not on the development and testing of future kinds of systems. (No mention of fixed, land-based systems.)

Shchukin: If one could not point to specific systems in or near development status, the politicians and diplomats would probably not be interested in future possibilities.

2. August 24, 1971. Shchukin: The sides had achieved an understanding that limitations should cover such systems of ABM defense as radars, launchers, and ABM interceptor missiles. . . . In other words, the treaty should have for its subject ABM systems which could be technically described and determined. . . . What did the U.S. have in mind in speaking of such ABM systems (refers to other devices in U.S. proposed Article VI) and such devices?

3. August 27, 1971. Minister Semenov: It was his impression that it was doubtful if it (the U.S. proposal on other devices) properly applied to the subject matter of an agreement on ABM limitations.

Ambassador Smith: If future systems were not covered, uncertainties would increase.

Brown: Our objective in this Article 6 is to establish a commitment that neither side will deploy ABM systems—including future types of ABM systems—which might not use ABM interceptor missiles, ABM launchers, or ABM radars.

4. August 31, 1971. General Trusov: Did not consider it reasonable or necessary to include a provision covering what he called undefined ideas, maintaining that the provision in both the U.S. and Soviet drafts for review and amendment would be sufficient . . . a provision of the kind which the U.S. side has proposed would add an undesirable element of vagueness to our ABM agreement.

5. September 3, 1971. General Trusov: The U.S. side's objective in including a paragraph in Article 6 to provide obligations not to deploy ABM systems, including future systems, which use components other than ABM launchers, interceptors, and radars is not clear. What is, in fact, involved is conjectural systems, i.e., some possible future systems not now known to anybody . . . the U.S. side proposes to include in a draft treaty limitations on the deployment of such systems or components not known to anybody. The Soviet side does not believe that it is correct to include such limitations.

Smith: Without an agreement on future systems . . . it would be a cruel illusion to the peoples of both nations to say that we had concluded an agreement on ABM systems.

6. September 8, 1971. Col. Fedenko: If ABM means different from those presently known . . . should be detected by national means, the problem could be examined by the Standing Commission.

7. September 8, 1971. Karpov: Believed it was wrong to limit means not known to anyone. Up to now, he noted, the subject of our discussions was limitations on concrete and specific ABM systems . . . which might exist and could be verified by national means . . . we should adhere to this subject in the future too. . . . He noted that appropriate procedures for handling these questions are envisaged . . . the Standing Consultative Commission would "consider" . . . additions and amendments.

Graybeal: He felt that an operative article indicating clearly the objectives with regard . . . to future systems would be far more useful than merely referring these questions to the Standing Commission. . . . He noted that the texts (referring to paragraph 2 of U.S. proposed Article VI and Soviet Article V) were similar with two exceptions . . . the U.S. text refers to future devices, and reflects the basic difference in view (referring to future ABM systems) which we have been discussing in relation to paragraph 1 of the U.S. Article 6.

Graybeal: Asked whether the language of the Soviet working paper (responding to U.S. Article VI.2.) covered devices other than ABM launchers, interceptors, and radars . . . and whether transportable systems or components would be considered as mobile systems or components.

Barlow: "Said that by transportable systems" we mean interceptors, launchers, and radars.

Karpov: Said he would review the U.S. remarks . . . wished to ask however whether the term mobile included the term transportable . . . asked if this also applied to sea-based, air-based, and space-based systems. Graybeal responded affirmatively.

8. September 13, 1971. Col. Fedenko: Reiterated the standard Soviet arguments against including any general provisions on future undefined ABM systems.

9. September 15, 1971. Karpov: Argued that the new formulation of Soviet paragraph 1 (U.S. paragraph 2) of Article 6 (V) obviates the requirement for the phrase "other devices for performing the functions of these components" appearing at the end of U.S. paragraph 2.

10. September 17, 1971. Smith: Had the feeling that the Soviet position on Article 2 reflected a desire that nothing be done to prejudice the Soviet position on the issue treated in paragraph 1 of Article 6.

Semenov: Bearing in mind that inclusion of uncertainties in an agreement would surely lead to all sorts of misunderstandings in the future . . . with reference to the U.S position on Article VI . . . he would not care to say any more . . . this problem would be kept in his field of vision . . . for the next Vienna phase.

11. September 20, 1971. Garthoff: Stated there would remain seven points of difference including a provision to cover future "unconventional" ABM systems.

12. November 30, 1971. Shchukin: The Soviet side cannot recognize as well-founded the proposal of the U.S. involving an obligation not to deploy ABM systems using devices other than . . . missiles, . . . launchers, . . . radars . . . The subject of a Treaty (Agreement) could only be a specific and concrete limitation of ABM systems.

13. December 7, 1971. Garthoff: On Article V, both sides reiterated the strong positions which they hold on the question of the paragraph relating to future systems. . . . Kishilov and Grinevsky flatly asserted that they were certain there would be no change in the position of the Soviet side.

14. December 10, 1971. Brown: The Soviet side has objected to limits on possible future ABM systems on the basis that such systems are defined only in general terms.

15. December 14, 1971. Nitze: Noted in connection with Shchukin's comments . . . on future systems he had emphasized the inappropriateness of this subject for treaty language.

16. December 14, 1971. Semenov: Although Dr. Brown said that the question of future ABM systems, which do not include launchers, radars, and interceptors . . . I would like to ask what this is all about in concrete terms. In what does the U.S. side see a danger in the absence of a provision on this account in the treaty? If these systems cannot be defined now, except that they are not something known today, and, at the same time, the draft treaty includes a number of clear limitations and constraints not to deploy territorial ABM systems, not to give the capability for rapid reload, etc., is it not sufficient to have such limitations? To be sure, including in the treaty a provision covering something that is not known cannot be justified by any considerations, and therefore this proposition cannot be the subject of a treaty.

17. December 17, 1971. Garthoff: On future ABM systems, I suggested to Kishilov the possibility of a new approach to meeting the issue. Perhaps it would be possible to have a clear and explicit understanding, for example, in an agreed minute, that neither side would deploy a future ABM system or components without prior consultation and mutual agreement in the Standing Consultative Commission.

18. December 17, 1971. Garthoff: Grinevsky referred to the conversation I had had that morning with Kishilov concerning a possible alternative approach to handling future ABM systems . . . handling these matters through the Standing Consultative Commission, rather than through explicit treaty provisions, offered a possible resolution to our differences.

19. December 20, 1971. Semenov: Suppose that the draft treaty . . . had a provision on limiting systems other than those new known which use interceptors and launchers . . . such a provision would create the grounds for endless arguments, uncertainties . . . He asked if the goal of the two Delegations isn't just the opposite, that is to reach agreement on limiting known ABM systems . . . certainly such limitations on known ABM systems constitute a factor for relaxing international tension and curbing the race in strategic arms and limiting them . . . how then could an ABM treaty include a provision about whose content the sides do not have the vaguest notion? . . . Could the sides include in an ABM treaty the unknown without risk of making the treaty indefinite and amorphous? . . . The sides cannot and must not engage in discussion of questions not known to anyone. The task faced by the two sides is to erect reliable barriers against deployment of known ABM components in excess of the levels defined by the ABM treaty . . . If it should appear necessary to supplement the ABM treaty by a provision prohibiting or limiting other ABM components in addition to those now known, this can be done in accordance with the procedures provided for in the provision on review.

20. December 20, 1971. Grinevsky: Raised the question of dealing with future ABM systems through statements on the record.

Garthoff: noted that the suggestion he had advanced in this respect was for an agreed minute . . . there must be a clear agreed mutual understanding that, prior to any deployment of future systems . . . there would be consultation and agreement in the Standing Consultative Commission.

21. December 21, 1971. Grinevsky: Asked if the American side had proposed language for the suggested separate agreed understanding on future ABM systems.

Garthoff: Said he could provide an illustrative draft statement . . . as a possible solution to the impasse over the American proposal for a third paragraph in Article V. The Soviet Delegation has said on several occasions that it is opposed to the proposal by the United States to include a provision in the ABM agreement prohibiting ABM systems in the future which would use devices other than ABM interceptor missiles, ABM launchers, or ABM radars to perform the functions of those components. In order to contribute to negotiating progress, while maintaining our basic position on this matter, the U.S. side is willing to drop Article V(3) if there is a clear agreed understanding as part of the negotiating record. An Agreed Minute could read as follows:

The Parties agree that the deployment limitations undertaken in Article I and Article III are not to be circumvented by deployment of components other than ABM interceptor missiles, ABM launchers, or ABM radars for countering strategic ballistic missiles in flight trajectory. They agree that if such components are developed and the question of deployment arises, neither side will inititate such deployment without prior consultation and agreement in the Standing Consultative Commission.

22. January 11, 1972. Shchukin: The Soviet side continues to believe that only quite specific ABM system components of which each side had a clear idea could be included in an ABM treaty. . . . For this reason the Soviet delegation continues to consider this point "not suitable" for inclusion in the draft ABM treaty we were negotiating.

Nitze: Said he had understood from Shchukin's remarks that he believed that if ABM components other than radars, interceptors and launchers were developed, they could appropriately be the subject of consultations under Article XIII. However, if such components were developed and could, in fact, be deployed in a manner to circumvent the specific limitations of Article III of the treaty, would it not be appropriate that they also be subject to agreement between our Governments?

23. January 11, 1972. Grinevsky: Said that the treaty referred to ABM systems which were defined in Article II. It could not deal with unknown other systems.

Garthoff: challenged this interpretation on two grounds: first, the treaty dealt not only with ABM systems compromising components identified in Article II, but all ABM systems; second, the issue did not concern "other" systems but rather future ABM systems. . . . However, what Garthoff was referring to—and what the U.S. was particularly concerned about—was precisely ABM systems and components of some new kind in the future. Garthoff repeated his reference to laser ABM interceptors as an example.

24. January 14, 1972. Trusov: Affirmed the Soviet position that it is premature to discuss limiting systems which are now nonexistent, and that if and when such systems appear then limitation would be subject to discussion under the provisons of Articles XIII and XIV of the Draft ABM Treaty.

25. January 14, 1972. Shchukin: Said he had a very brief comment to make. At the January 11 meeting, Mr. Nitze had asked the question whether so-called "other ABM means" would be a subject not only for appropriate consultation but also for agreement. Both sides agree that they should assume obligations not to deploy ABM systems except as provided in Articile III of the draft ABM Treaty. In order to insure implementation of this provision of the Treaty, the sides could, in the event of the emergence of ABM systems constructed on the basis of other physical principles, further discuss the question of their limitation in accordance with Articles XIII and XIV of the draft ABM Treaty.

26. January 14, 1972, Grinevsky: produced a Soviet draft, based closely upon (but not identical with) the statement made in the meeting that morning by Academician Shchukin. The statement read:

"With a view to ensuring the implementation of the provisions contained in Articles I and III of the Treaty on the limitations of ABM systems, the Parties agree that in the event of the emergence of ABM systems based on other principles questions of their limitation may be discussed further in accordance with Articles XIII and XIV of the ABM Treaty."

27. January 26, 1972, Grinevsky: in response to the latest proposed U.S. language on the Agreed Interpretive Statement on future ABM systems strongly urged that the American side not pursue this proposed addition, i.e., a clause reading to perform the functions of ABM interceptor missiles, ABM launchers, or ABM radars. He also commented that his side had now accepted the earlier American formulation completely, and in fact had accepted the American position on the subject entirely, save only that it would be a jointly agreed interpretation rather than a paragraph in the treaty.

Draft Interpretive Statement on Future ABM Systems: In order to insure fulfillment of the obligation not to deploy ABM system components except as provided in Article III of the Treaty, it is agreed that in the event ABM system components other than ABM interceptor missiles, ABM launchers, or ABM radars are created in the future, specific limitations on such system components would be subject to discussion in accordance with Article XIII and agreement in accordance with Article XIV of the Treaty.

28. January 31, 1972, Garthoff: I suggested that perhaps we need a fresh approach, first survey the problem and see if we agreed on the substance of the matter—which I believed we did—and then find appropriate language to express this agreed position. Grinevsky saw that I was speaking from prepared notes and seemed interested. I thereupon gave him a copy . . . after reading the talking points, Grinevsky said that he believed there was complete agreement.

Garthoff Talking Points: It is understood that both sides agree that:

1. ABM systems and their components, as defined in Article II, should not be deployed except as provided for in Article III.

2. The deployment of ABM system components other than ABM interceptor missiles, launchers, or radars to perform the functions of those components is banned.

3. Devices other than ABM interceptor missiles, ABM launchers, or ABM radars could be used as adjuncts to an ABM system provided that the devices could not perform the functions of and substitute for ABM interceptor missiles, ABM launchers, or ABM radars. For example, a telescope could be deployed as an adjunct to an ABM system, whereas a laser for performing the function of an interceptor missile by rendering ineffective a strategic ballistic missile in flight trajectory could not be deployed.

4. Article III should be drafted so as not to permit the deployment of devices other than ABM interceptor missiles, ABM radars to substitute for and perform their functions.

5. If such devices are created in the future, their deployment could be provided for by limitations subject to discussion in accordance with Article XIII and agreement in accordance with Article XIV.

29. February 1, 1972. Allison: I observed that both sides have had a clear understanding for some time that within the context of our negotiations when we speak of an ABM system we are referring to a system made up of three components—ABM launchers, ABM interceptor missiles, and ABM radars. We also appear to agree that substituting a different component for one of these three in the future would result in a "future" or "other" ABM system. It seems that . . . our Delegations should be able to agree on a set of words for the interpretive statement.

30. February 1, 1972. Nitze: It seemed to me to be most likely that if something new were to become possible in the future, that this would be of such a nature as to substitute for either launchers or interceptors or radars, but not for all three.

Shchukin: said that if a new system were developed which could substitute either for radars or for interceptor/launchers, this would be a new system and, as such, subject to Articles XIII and XIV.

31. February 1, 1972. Garthoff: Grinevsky called to say that he believed his Delegation could accept the proposal if the words "based on other physical principles and" were included before the phrase "including components."

AGREED STATEMENT D TO THE TREATY

In order to insure fulfillment of the obligation not to deploy ABM systems and their components except as provided in Article III of the Treaty, the Parties agree that in the event ABM systems based on other physical principles and including components capable of substituting for ABM interceptor missiles, ABM launchers, or ABM radars are created in the future, specific limitations on such systems and their components would be subject to discussion in accordance with Article XIII and agreement in accordance with Article XIV of the Treaty.

Mr. HOLLINGS. Mr. President, I have as thoroughly as I know how gone down chapter and verse to clear up this nonsense about exotics. I have also tried to clear up this nonsense that we do not understand the treaty because mobile is the thing or land-based is or fixed land-based is not or mobile is not and the like.

The debate is on current or future systems. That is the differentiation.

Now, what happens: We go into all of the language and to the Senators in the ratification. And I could go at length, but maybe we will speak a little bit more after we join in debate here.

We had the distinguished Senator from Mississippi as the chairman of the Armed Services Committee when the treaty was ratified. And if there is any doubt about what Congress had in mind and whether or not future systems were limited, let me point out one interesting fact. The very same Senate that ratified the treaty—the restrictive treaty we are told—provided just the opposite. I say this because we continued after the treaty to appropriate funds for future R&D technology without limiting it to fixed land-based systems. For fiscal year 1973, for the Army's Laser Technology Program, we appropriated $11.9 million for the Navy's high energy laser, $18.2 million; for the Air Force; strategic laser technology, $1.3 million; and for the DARPA short-wave laser technology program; $20 million.

Now, Mr. President, we continued funding and we still hear that Senator Jackson had been told "no future systems." Let us assume that they are correct—and I know they are incorrect. In fact, on the debate, Senator Jackson never even mentioned the ABM Treaty. He did ask some questions. He used the phrase fixed land-based at times, as the generals did from time to time. But, generally speaking, all of the negotiations were on current and future. Senator NUNN only quotes eight Senators who asked about future systems and the majority of them agreed with the Senator from South Carolina if you look carefully at the words used. In all candor I did not listen to them. I came to the floor, and they did not listen to me. The entire debate was 6 hours on August 3, 1972.

There was none of this, whether it is a broad interpretation or the narrow interpretation; never all that nonsense about exotics. That is not in the treaty. The debate was and is current and future.

But there could not be any doubt. That same Congress, Senator Jackson, Senator STENNIS, handling the defense authorization bill, the very one that we are discussing now for fiscal 1988, they provided all of these amounts for all of the future systems, that now the Senator from Georgia says in his amendment you cannot test and you cannot develop, which we could in 1973.

And what about 1974? Army laser technology, I say to Senator STENNIS, Army laser technology, $11.7 million. The Navy's high energy laser, $19.5 million; The Air Force's strategic laser technology, $3 million; DARPA's short wave laser technology, $17 million, that's $51.7 million.

I will never forget, because we argued this on another particular point relative to President Reagan's Strategic Defense Initiative Program.

He certainly made SDI exotic, we used to call it the Ballistic Missile Defense Program. Senator WALLOP, and I were vitally interested in the BMD Program. I was on the Defense Appropriations Subcommittee. By the time President Reagan took office in 1981-82, I say to the Senator, we had nearly $1 billion in research and development for BMD.

We have an entirely new technology now. But we were pressing and shoving President Carter to get into space because we could see the Soviets in space.

That is why we were so vitally interested in it and why we were pressing the subject at that time. All of a sudden, President Reagan comes in and takes the ball and calls it the Strategic Defense Initiative [SDI] Program. He is going to have an umbrella. He is going to end all nuclear—peace in our time. He overdescribed it and everybody said that is unrealistic and everything else. He, in his zeal and over-description about the particular subject, almost killed it.

The DOD took the Army BMD Program from Huntsville, AL, upgraded it, put it in the Air Force's hands, labeled it SDI and peace in our time, and we had an umbrella defense. And we are going to give our research to the Soviets. Well, that is nonsense. And that is why you cannot make sense, because the client, President Reagan, cannot make up his mind now.

Give me a client like Ollie North. He knows what he is doing. That is why North was so good. He had clearance. He knew what his mission was and he did it. In this whole debate, I cannot tell you whether President Reagan agrees with the ABM Treaty or not. I do not know. I would love to find out because I could make a powerful argument one way or the other. He leaves me in limbo.

What kind of nonsense do we have here with the chairman of the Armed Services Committee coming along and saying you cannot commit yourselves—the President himself says about a treaty: "I can't make up my mind, but by the way, I am going to veto it." I do not know what he is going to veto, because he might, by then, agree with it.

Mr. President, this whole nonsense started back in March. I want to quote this one thing so everybody will understand exactly what the distinguished Senator from Georgia contended and he cannot change it. Here is what he says.

I refer, if you please, Mr. President, to March 11 the CONGRESSIONAL RECORD of the U.S. Senate on page S2975. It is in the middle of the page, right at the top—talking about ABM(c).

ABM radars, which are radars constructed and deployed from an ABM mode.

And so forth.

Then next Senator NUNN says under the title "Traditional interpretation."

Article II defines the term ABM system generically.

False, absolutely false. It does not do it generically. It does it explicitly.

Garthoff said, and I put it in the RECORD: "We have got to be precise."

Ambassador Gerald Smith in his book said, "precisely drawn." The Soviets complained as we negotiated, let us not put anything in that is vague. Everything was precise. Nothing is generic but I will read on. We have got to correct this.

Senator NUNN says:

Article II defines the term "ABM system" generically as a system which has the function of countering strategic ballistic missiles. The definition then lists as an illustration the components "currently" in use at the time of the agreement.

Not as an illustration but to specify. Words of specificity. Not just an illustration. You have to go along with the dance. You have to get in the rhythm to read this particular interpretation. I quote:

Because the clause listing the components is only illustrative—

Who said only illustrative?

it does not limit the term ABM systems to those containing such components—

When it did. He says it does not limit ABM systens to those containing such components. "It also means,"—listen to that—

it also means that the term implicitly covers future systems.

There is the treaty. We put it in the Record. We will read it again for you because, if you cannot find anywhere therein, Mr. President, where it says, as the distinguished chairman of the Armed Services Committee contends, that it only means that the term "implicitly" covers future systems. Let me quote again from Senator NUNN:

Consequently, future ABM systems that might use different components, that is exotics, are within the definition.

That is totally false. Totally false. Absolutely misleading.

Any study of this record will reveal, be it the ratification records be it the negotiation record be it the subsequent practices record; and more than anything else, be it the treaty itself, that there is nothing about exotics and that Article II does not cover future systems. It is misleading to state the opposite.

If article II covered futures, then what is the agreed statement D for? Why did they go from August—from July, really, of 1971 over this same point, until May of 1972, and finally get the argument concluded by this particular provision?

In order to ensure fulfillment of the obligation not to deploy—

It does not say testing and developing.

not to deploy ABM systems . . . the parties agree that in the event ABM systems based on other physical principles—

It does not say land-based, fixed land-based, mobile-based—it said "other physical principles." That means they did not know what it could be—"created in the future." Why would they put in "created in the future" to be controlled by agreed statement D if article II covers future systems, We know it does not cover future systems.

I just cannot go along with this charade. They have been caught off base. They know it because they are not out here arguing against what I am saying.

They will not take the floor and argue against what I am saying. I want to hear them. I am right here. I will be glad to stay here all evening and I want to hear their arguments against the presentation I have made because there has been a lot of work in this thing. It is conscientiously done. If I am wrong, I will apologize, but I can tell you here and now, I am afraid I am not.

What we are doing is rewriting a treaty with a simple amendment in an authorization bill. What the Constitution requires by a two-thirds vote, this amendment will do by a simple majority vote and allow the House of Representatives to join in where it does not belong. If this is not the destruction of the process, I do not know what it is.

The 1972 Antiballistic Missile Treaty is a remarkably straightforward document—a model of "precise"—negotiator Garthoff—English as spoken by very careful lawyers, meticulously crafted over a year's time. For a decade and a half, there was no significant argument concerning its meaning and intent.

Today, however, that placid unanimity has been shattered. Debate rages between two creative new "interpretations" of the ABM Treaty—one tailored to suit the political agenda of the left and another championed by the right. The left's "narrow" view is that the treaty bans development, testing, and deployment of ABM systems such as the strategic defense initiative. The right counters with the interpretation that, in effect, anything goes; we can deploy SDI next week and still abide by the Treaty.

What is lost sight of in this debate is the explicit, commonsense text that was agreed to in 1972. The ABM Treaty is not a bolt of cloth we can cut to fit this or that political fashion. As one who voted for the ABM Treaty, I am dutybound to speak up for the integrity—the explicit meaning—of the Treaty as it was originally negotiated and understood by the Soviet and United States negotiators.

The treaty interpretation touted by the "deploy now" faction failed to gain a wide following and has been success-

fully beaten back into its cave. But the "narrow" view, championed by Senator SAM NUNN is alive and kicking. It is mischievous nonsense that cries out for rebuttal.

Senator NUNN bases his new interpretation on statements made during the 1972 ratification process in the Senate. He insists that the treaty's meaning is determined not by the literal text of the treaty or by the negotiating record, what the Soviet and American negotiators actually said and aagreed to, but by the ratification record, for example, what Senators said during debate on the treaty. This deference to the ratification record—questionable on its face—is made doubly dubious by the fact that there was next to no floor debate on the ABM Treaty. Senators debated the treaty for less than 8 hours. Majority Leader Mike Mansfield complained that no Senators wanted to speak and that the Senate was "twiddling its thumbs."

Surely commonsense dictates that the negotiating record, in concert with the explicit text of the treaty itself, must hold precedence over various Senators' "interpretations" or "readings" offered in the course of ratification debate. Let us briefly examine the text and the negotiating record.

Article II of the treaty clearly differentiates between ABM systems current at the time of the signing of the treaty and ABM systems based on "other physical principles" in the future. Development, testing, and deployment of mobile-based versions of "current" ABM technologies, for example, those existing in 1972, are clearly banned by the treaty. However, there is no such ban on the development and testing of future technologies. The treaty's agreed statement "D" says only that deployment of such future technologies is subject to negotiation and agreement.

Negotiator Dr. Raymond Garthoff stated in 1971:

> The question of constraints on future systems would be settled elsewhere than in Article II.

In concert with this assertion, agreed statement "D" says—the emphases are mine:

> In order to insure fulfillment of the obligation not to deploy ABM systems and their components except as provided in Article III of the treaty, the Parties agree that in the event ABM systems based on other physical principles and including components capable of substituting for ABM interceptor missiles, ABM launchers, or ABM radars are created in the future, specific limitations on such systems and their components would be subject to discussion in accordance with Article XIII and agreement in accordance with Article XIV of the Treaty.

Former Chief ABM Treaty Negotiator Gerard Smith, testifying in 1972 on the nature of restrictions on futuristic ABM systems, virtually restated agreed statement "D":

> * * * one of the agreed understandings says that if ABM technology is created based on different physical principles . . . development work, research, is not prohibited, but deployment of systems using those new principles . . . would not be permitted unless both parties agree by amending the treaty.

During ratification, Senator Barry Goldwater asked Negotiator Smith:

> * * * under this Agreement are we and the Soviets precluded from the development of the laser as an ABM?

Mr. Smith replied tersely: "No, Sir."

More recently, in testimony March 19, 1987, before the Senate Appropriations Committee, former ABM Negotiator Paul Nitze stated:

> In sum, my recollection of the negotiating process leaves me convinced that the Soviets agreed in a binding manner to prohibit only the deployment, not the creation, of systems based on other physical principles.

Indeed, it is all but forgotten that the United States negotiating team worked doggedly to get the Soviets to ban future ABM technologies. Again and again, the Soviets responded with a flat "nyet." Regarding future ABM systems, former Negotiator Lt. Gen. Royal Allison stated on June 21, 1972:

> Constraints in the Treaty apply to deployments only. Research and development are not constrained. The U.S. delegation, under instruction, sought a clear-cut ban on deployment of future ABM systems but the Soviets would not agree.

Gen. Bruce L. Palmer, testifying in 1972 before the Senate Armed Services Committee, stated flatly:

> There is no limit on R&D in the futuristic system.

Yet, despite the crystal clear text of the treaty and the equally unambiguous testimony of our ABM negotiators, Senator NUNN and his allies continue to push amemdments in Congress that would shackle the United States to his "narrow" interpretation. This is wrong. In effect, he seeks to ratify a new treaty by a majority vote of the Senate instead of the constitutional two-thirds. He further corrupts the Constitution by inviting House participation in this new "ratification process."

Senator NUNN would unilaterally bind the United States to a "narrow" interpretation that the Soviets' own aggressive SDI program left in the dust long ago. At the other extreme, militant conservatives are hell-bent on immediate deployment of an SDI system that, by any assessment, still requires a thorough program of research and development. Both sides are wrong. We must say no to the distortion and politicization of the ABM Treaty, whether from the left or the right. We must defend the integrity of this excepitonally valuable treaty.

I yield the floor for a moment, Mr. President.

Mr. STENNIS addressed the Chair.

The PRESIDING OFFICER. The Senator from Mississippi.

Mr. STENNIS. Mr. President, I shall be brief in the remarks that I make here. I show up at this time, mainly because I have been on the committees there, both those committees, for a period of years.

This is a very difficult matter. It has been attended on both sides by a number of our very best Members on each side. Among our very best Members, not only in the field, but in the general field.

That has not included me. I have never had the privilege of working on it. I am not a specialist in that field either, so I do not take any credit in correctness about what my conclusions are.

I do know that it is a very delicate matter. It is difficult to deal with, particularly a new change in the rule, modifying it some.

I am pressured now, as we all are, by time. This is beyond the middle of September already, beyond the 16th day of September, and here are these bills that something has to be done with. They are major, far-reaching bills. With all deference to everyone, I think it is highly incumbent on us, knowing the responsibility that we have, to carry across-the-board these large sums of money around the world. I think we better clear up and clean up and pass these appropriations bills at the money levels chosen by the membership and continue to work on this question about missiles and all. We should not abandon that in the least, but we cannot hold up these major parts of our necessary items. As I say, on these far reaching and broad programs we cannot hold here, except to a degree.

I am very much concerned as a Member of this body that we let this matter pass on in some form, with that suggestion, and straighten out whatever we finally decide should be straightened out about this main question.

The Senator from South Carolina is very well versed in the subject and always makes a good speech. I always listen to him when I am around.

I will conclude with this statement, Mr. President:

As I see it, Mr. President, this amendment requires the United States to stick with the traditional, or narrow interpretation of the treaty as has existed for the past 15 years since its enactment in 1972, unless the Congress, our Congress, approves a change.

This issue has been scrupulously studied and carefully analyzed by the chairman of our committee, Senator NUNN, together with the Senator from Michigan [Mr. LEVIN], who is a man of great and deep ability, and in both of whom I have the utmost confidence and respect, and by the very able committee staff. They have all gone into

the matter in great depth and given it along and thoughtful consideration.

As I said, I voted in favor of the amendment during the full committee markup of the defense authorization bill this spring, and committee markup of the defense authorization bill this spring, and I will continue to support it in any way I can on the Senate floor.

I know this has to be straightened out. It should be done as soon as we reasonably can. That means delaying the rest of the budget, almost, in order to get some kind of a settlement.

In addition, Mr. President, changing the interpretation of the ABM Treaty now would raise very serious institutional questions, it seems to me, about treaty making as a whole and in particular the Senate's role in this important function.

While I believe that this whole matter should be reviewed in the light of the current day situation, and changes made, if they are appropriate, I do not believe that going back on an old treaty and reinterpreting it is the way to settle this issue. A change now in the traditional interpretation of the ABM Treaty could cause a grave misunderstanding, I think and raise all sorts of questions not only by other countries but by our own people concerning America's international dealings and our whole process of foreign affairs.

As I said, I will vote in favor of the amendment as reported by the committee. I want to encourage, thought that the matter be considered as briefly and ask rapidly as we can on the broad facts.

As I just said, if we should bring it up to date, so to speak, then that is what should be done.

Mr. WARNER. Mr. President, in a few minutes, I wish to say that while I may differ from the ultimate conclusion of our distinguished former chairman, indeed I was deeply moved by the reasoning that he provided. I have the utmost respect for his historical perspective. I hope he has observed, as I have, that to date we have had good, sound debate. We recognize the urgency to move on with this bill, the chairman's desire, and a view which I share, and we are doing our very best.

I also would acknowledge that the distinguished Senator from South Carolina has again made a very important contribution to this important debate.

Mr. STENNIS. I thank the Senator for his generous words. I appreciate the fine work he has been doing.

Mr. WARNER. Mr. President, at some point I would hope our colleague from Missouri would be given an opportunity to speak.

Mr. NUNN. Mr. President, I, too, want to commend the Senator from Mississippi. He has been my hero for a long time, even before I got to the U.S. Senate. That image of the chairman of the Armed Services Committee before I got here, meaning the Senator from Mississippi, was an image that inspired me to run for the U.S. Senate. When I arrived here, under his chairmanship, one of the great pleasures of my life has been learning in his footsteps, and watching him serve as chairman with not only ability but with absolute integrity. As far as I am concerned, the Senator from Mississippi is a Senator's Senator. I say that when he is on my side and I also say it when he and I do not agree, which is not very often because I usually follow his guidance and advice. I do not know of any other person I would rather have on my side on such an important issue as this. I commend him for his exemplary service both as chairman of the Senate Armed Services Committee, as Senator pro tempore, and as a Senator we look to for character and integrity, and as the Senator we look to when we try to define to people outside this institution what this institution is all about.

Mr. WARNER. While the manager of the bill is here, there is the pending matter of the unanimous consent request that goes to the clarification of the standing of the Glenn amendment.

As far as I know, there is no objection on this side.

Mr. NUNN. Mr. President, I thank my colleague from Virginia. We talked about this last evening. I believe the minority leader was there when we talked about it. The Senator from Ohio has been most patient. It is his amendment. He has been somewhat of a punching bag. We have not debated his amendment but we have used it as a vehicle to which other amendments were attached. He desired that his amendment be judged on its own merits. The unanimous-consent request is in three parts.

Mr. President, I ask unanimous consent that the Byrd-Nunn amendment, No. 681, adopted last night, be separated from the underlying Glenn amendment, No. 680, and treated as if it had been enacted as a first-degree amendment to be inserted in the bill at the appropriate place.

Mr. WARNER. Mr. President, after consultation with the minority leader and other Members on this side, that correctly recites the understanding that was reached last night in the nature of a refinement. We have no objection.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. NUNN. Mr. President, I further request unanimous consent that the word "firm" be stricken from the first line of the Byrd-Nunn amendment and be inserted after the word "foreign" in the last line of subsection (d)(2) of the Glenn amendment.

I say by way of explanation that this is a further technical amendment in putting the Glenn amendment back where it was. My colleague and I have discussed this. I would hope he would have no objection.

Mr. WARNER. No objection.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. NUNN. Along the same line, Mr. President, I finally request that the subsection designated (e) be stricken from the Byrd-Nunn amendment as adopted.

The PRESIDING OFFICER. Is there objection?

Mr. WARNER. No objection.

The PRESIDING OFFICER. The Senator from Virginia indicates there is no objection. Is there objection from any Member of the body? No objection being heard, it is agreed to.

Mr. NUNN. Mr. President, may I say to my friend from South Carolina, I commend him for the diligence he has applied to this task because he has gotten into this in detail. He and I have a fundamental disagreement on this matter, but I know how many hours are required to get into the detail the Senator from South Carolina has gotten into on this matter. It is a mind boggling, complex task and with his usual diligence he has gotten into it in great detail.

So we do not agree on the conclusions, but I do commend him for his diligence, for his efforts, for his dedication to the Nation's security, which has been longstanding, and for his overall contribution to this debate.

Mr. HOLLINGS. I thank the Senator.

Mr. BOND addressed the Chair.

The PRESIDING OFFICER (Mr. BINGAMAN). The Senator from Missouri.

Mr. BOND. Mr. President, I have been listening to the debate that has taken place today and has continued on and off for the past 4 months. I share the concern of many of my colleagues regarding the Levin-Nunn language which prohibits the Department of Defense from conducting tests of the strategic defense initiative without the prior approval of both Houses of Congress.

Mr. President, I find the Levin-Nunn language unacceptable for several reasons. We have heard many of these reasons mentioned during today's very informative debate, but I believe this issue is so critical to our Nation's security that all interested Senators' opinions should be thoroughly and completely aired.

I agree with the interpretation of the distinguished ranking member, the Senator from Virginia, that the amendment raises constitutional concerns. This provision represents an unacceptable intrusion by Congress into the President's conduct of foreign

policy. The Constitution sets forth the roles the different branches of Government are to play in the conduct of foreign policy. It provides that the President is to be the sole representative of the United States in the making of treaties. With this amendment Congress attempts to take a bigger piece of the pie by encroaching on the President's area of responsibility.

In addition, I oppose this amendment for the same reason I have opposed other arms control provisions that have been proposed in Congress, because it and they represent a unilateral constraint upon the United States.

Mr. President, when Congress enacts into domestic law provisions which unilaterally prohibit the United States from taking action which would be in our national security interest, that is not an arms control measure. That is a concession. Whether or not we conduct tests into various aspects of the strategic defense initiative should be the subject of negotiations between the United States and the Soviet Union, just as measures relating to nuclear testing or antisatellite weapons or nuclear warhead limits should be the product of negotiations between the two countries. These types of conditions should not be imposed unilaterally on our country by the Congress. The practical effect of the Levin-Nunn language is that our negotiators are forced to adopt a restricted position regarding the testing of strategic defense systems. This is similar to what Soviet arms control negotiators have been trying to accomplish at the bargaining table.

As the distinguished junior Senator from Texas said earlier today, and he said it very eloquently, the Soviets are deeply concerned about the possibility of the United States developing a strategic defense system. They do not want to see it researched, they do not want to see it tested, and they certainly do not want to see it deployed. SDI has brought the Soviets back to the bargaining table and it has kept them there. It would be a great mistake for the Congress to force our negotiators to give up the very leverage that appears to be the force behind the recent movement in arms control negotiations.

It seems clear to me that the last thing we want to do is give the Soviets the very thing they have been seeking during the past few years of negotiations without getting compensating concessions from the U.S.S.R. Regardless of whether individual Senators support SDI research, SDI deployment, or abandonment of the SDI program altogether; and regardless of whether they believe SDI should be used as a bargaining chip or that it must be deployed at all costs, simple common sense should tell us that it is a mistake to relinquish SDI as a lever at the negotiating table.

The whole point of the give and take of a negotiation is to get the best deal we can. When we show our cards before we even get to the table, we relinquish our ability to protect our interests.

Mr. President, it would be a mistake for us to enact a provision like the one we are considering today especially at a time when it appears that we are very close to concluding an arms control agreement with the Soviets. Passage of this provision can only result in the President losing leverage in his talks with Soviet leader Gorbachev.

Mr. President, today following the suggestion of our distinguished colleague the junior Senator from Oklahoma, I had the pleasure of talking with an arms negotiator. I called Dr. William Van Cleave. Dr. Van Cleave, a member of the 1969 through 1971 SALT I negotiating team, as many of my colleagues know, is a distinguished professor of strategic studies and recognized expert on arms control issues. He was a lead witness before the committee and spoke in opposition to the treaty. He said at that time that some U.S. negotiators wanted a restrictive interpretation but the U.S.S.R. rejected that interpretation.

Recently I had the honor of welcoming Dr. Van Cleave to Southwest Missouri State University in Springfield, MO, where he is establishing his center for defense and strategic studies.

What he told me today was, first, that the article by Senator DAN QUAYLE, our distinguished colleague from Indiana, which appeared in the June 15, 1987, Los Angeles Times, was completely accurate. Dr. Van Cleave states that the Levin-Nunn amendment would hold us to a unilateral interpretation of the treaty which the Soviets do not accept. It would treat the ABM Treaty as if it were effective and as if it were being observed when in fact the ABM Treaty has failed to prevent the establishment of a defensive capability by the U.S.S.R. and it has failed to prevent a buildup of offensive weapons by that country.

Professor Van Cleave reminded me that a book by the distinguished scholar Walter Lippmann, in 1947, said that "disarmament treaties tragically have usually been effective in preventing the armament of that side which does not want to arm." And that would be the impact of the Levin-Nunn amendment today.

Professor Van Cleave has pointed out the Levin-Nunn amendment assumes that both sides are equally complying with the ABM Treaty, but it ignores the fact that it has not prohibited, as it was intended, the development of a base for national defense of the country. First, it was to have prevented phased array radar systems, but we know in fact that the Krasnoyarsk radar and the other mobile radar systems are providing that kind of coverage. Second, it was to prevent the development of surface-to-air missiles that could be used in countering ICBM's, but the President has found probable and his advisory commission has found certain a violation of the dual testing of air defense in an ABM mode.

Third, it was to prevent the development of ground-based mobile missile components. Once again the President has found probable violation, the General Advisory Commission has found outright violations because the Soviets have proceeded to develop ABM capable mobile radars. The President has concluded that the sum of these separate violations raises the very real probability that the U.S.S.R. is developing a national ABM defense.

Professor Van Cleave urged that the Members of this distinguished body consider a comparison of what the two countries have done since the conclusion of this treaty. First, the U.S.S.R. has developed the Moscow defensive system, the ABM system for Moscow, which is permitted by the treaty. The United States has none. But to go beyond that, the U.S.S.R. has embarked on a very rigorous, expensive, and continuing program to modernize the Moscow system which has been thoroughly redone and brought up to date with radars, launchers, and interceptors.

On the U.S. side, since we do not have a system we obviously have not upgraded.

Third, what is most disturbing is the U.S.S.R. has opened production lines. They are turning out equipment to be used in ABM defenses. They have set up, in modernizing the Moscow system, a production line that allows them to store, stockpile, and to prepare for prompt deployment the equipment they would need in a full-fledged nationwide ABM defense system.

The United States obviously has gone nowhere nearly so far.

What about the existing system? The U.S.S.R. has 6,000 radars and 12,000 launchers, most of them ready for speedy reload. They have been upgrading their SS-10 and their SS-12, blurring the difference between a surface-to-air missile and an antiballistic missile.

Here, the United States has some radars and has some F-15's but we have virtually no defensive capability going beyond the aircraft intercept.

In the final area, the U.S.S.R. has a research program. And here so does the United States. We have what we are calling the SDI, the strategic defense initiative. Professor Van Cleave suggests that it really is kind of the other way around. The U.S.S.R. has

more heavily funded the longstanding research into a program which General Abrahamson and Admiral Crowe said give them a lead. They have the strategic defense initiative. They are on the initiative. What we have is a strategic defense response.

Finally, Professor Van Cleave points out that, as the Wall Street Journal said in its July 15 editorial, the U.S.S.R. has targeted and tracked an ICBM with a laser. This would be in violation of the Levin-Nunn amendment. They have already done the things that the Levin-Nunn amendment would prohibit us from doing.

Based on his views, those of Professor Van Cleave, and what we have heard and learned from others, Mr. President, I ask how we in this Congress can impose on our country a more restrictive interpretation of the ABM Treaty when the Soviets are not even sticking to it now, and seem willing to go beyond the limits of even what the broadest interpretation would permit.

It is for all of these reasons that I joined with 33 of my colleagues in writing the President on May 6 to tell him that I would oppose the Levin-Nunn amendment during the Senate consideration of S. 1174, and that if necessary, I would, and I shall, vote to sustain his veto of the entire defense bill.

This debate has been almost absent of any discussion of what the Soviets are up to. And I do not think the American people understand the duplicity of the Soviets with respect to every treaty in which they have engaged.

Mr. President, I share the concern of all Members of this body regarding the importance of passing a defense authorization bill. Providing for the defense of our Nation is the most important duty of the Federal Government. Passage of a defense authorization bill this year is important to our continued ability to maintain our defenses.

I hope we will be able to remove or to at least separate this amendment from the bill so that we can proceed with the consideration of critical national security issues.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from North Carolina.

Mr. HELMS. I thank the Chair.

Mr. President, before the distinguished Senator from Missouri leaves the floor, I want to compliment him for what he just said. He has given good advice to the Senate, and I might add, the Senator himself has received good advice from a man whom I respect highly, Bill Van Cleave, and the Senator is indeed fortunate to have Bill as a resident of his State, and a professor of a fine institution in Missouri.

I thank the Senator.

Mr. BOND. I thank the Senator.

SOVIET ABM TREATY VIOLATIONS

Mr. HELMS. Mr. President, I want to extrapolate a little bit on what the distinguished Senator from Missouri had discussed. I will not take long. When I conclude, I am going to ask—I do not do so now—that a listing of the confirmed Soviet arms control treaty violations be printed in the RECORD.

First of all, just for example, and I am going to ask Mr. Sullivan to hold up a drawing, I call the Senate's attention to a drawing of the Soviet Krasnoyarsk radar and a map of the Soviet Union showing ABM radar coverage.

Mr. President, the Soviet Krasnoyarsk radar is a clearcut violation of the ABM Treaty; no question about it. It is so clearcut as to be startling. It shows the high degree of arrogance of the Soviet Union. Apparently they have decided that we are not going to protest anything, and that certainly the Congress of the United States is not going to take any firm action.

The map shows that the Krasnoyarsk radar is in the interior of the U.S.S.R. and it is oriented inward. The ABM Treaty states that it must be on the periphery of the Soviet Union and oriented outward.

The Krasnoyarsk radar pictured in the drawing is a clearcut violation itself. The recent U.S. congressional visit to inspect Krasnoyarsk confirmed the U.S. assessment that it is indeed a violation, and previously both the Senate and the House went on record that the Krasnoyarsk radar is a clear violation of the ABM Treaty—and, as such, that it is an important obstacle to any new arms control treaty.

I have arrived at the conclusion that instead of debating U.S. unilateral interpretations of the ABM Treaty, we should be debating withdrawal from ABM Treaty due to the Soviet breakout.

That, it seems to me, is inevitably the ultimate notice to the Soviet Union—that we are not going to put up with their violations any more.

Second, I call the Senate's attention to the drawing of the SAM-12. The President has reported to the Congress six times that it is "highly probable" that the Soviets have tested the SAM-12 in an "ABM mode" in violation of the ABM Treaty. This violation is particularly serious, because it could contribute to a Soviet nationwide ABM defense, which is the key prohibition of the ABM Treaty.

Mr. President, I ask that an annex entitled "Confirmed Soviet SALT Violations," be printed in the RECORD. I might add, Mr. President, that I have made certain that all information herein has been declassified and cleared for my public use by the CIA.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

ANNEX: CONFIRMED SOVIET SALT VIOLATIONS

A. Presidentially Confirmed Expanding Pattern of Soviet SALT II Breakout Violations—Total of 24:

I. SS-25 road mobile ICBM—prohibited second new type ICBM:

1. Development since 1975;

2. Flight-testing (irreversible) since February, 1983;

3. Deployment (irreversible) since October, 1985—over 100 mobile launchers—"direct violation":

4. Prohibited rapid-refire capability—doubles or triples or quadruples force;

5. Reentry Vehicle-to-Throw-Weight ratio over 1 to 2 (and doubling of throw-weight over the old SS-13 ICBM)—probable covert SS-25 two or three MIRV capability—"direct violation";

6. Encryption of telemetry, "direct violation".

II. Excess Strategic Nuclear Delivery Vehicles (SNDVs):

7. Strategic Nuclear Delivery Vehicle de facto limit of 2,504—Soviets have long been at least 75 to over 600 SNDVs over the 2,504 SNDV number only they had when SALT II was signed in 1979, thus illustrating the clear fact that SALT II was fundamentally unequal.

III. Prohibited SS-N-23 Heavy SLBM:

8. Heavy throw-weight prohibited—conclusive evidence (irreversible);

9. Development since 1975;

10. Flight-testing (irreversible);

11. Deployment on Delta IV and probably on Delta III Class submarines (irreversible);

12. Encryption of telemetry.

IV. Backfire Intercontinental Bombers Excess Number and Extended Range:

13. Arctic basing, increasing intercontinental operating capability;

14. Probable refueling probes, also increasing intercontinental operating capability;

15. Production of more than 30 Backfire bombers per year for an estimated period of over five years, making more than an estimated 12 extra Backfire bombers;

V. Camouflage, Concealment, and Deception:

16. Expanding pattern of camouflage, concealment, and deception (Maskirovka), deliberately impeding U.S. verification.

VI. Encryption:

17. Reported almost total encryption of Soviet ICBM, IRBM, SRBM, SLBM, GLCM, ALCM, and SLCM telemetry.

VII. Concealment of ICBM Launcher and Missile Relationship:

18. Reported probable concealment of relationship between SS-24 missile and its mobile ICBM launchers, and concealment of the relationship between the SS-25 missile and its mobile ICBM launchers.

VIII. Prohibited SS-16 Mobile ICBM:

19. Confirmed concealed deployment of 50 to 2000 banned SS-16 mobile ICBM launchers at Plesetsk test and training range, now reportedly probably being replaced by a similar number of banned SS-25 mobile ICBM launchers.

IX. Falsification of SALT II DATA Exchange:

20. Operationally deployed, concealed SS-16 launchers not declared;

21. AS-3 Kangaroo long-range-air-launched cruise missile range falsely declared to be less than 600 kilometers, and not counted.

X. Excess MIRV Fractionation:

22. SS-18 super heavy ICBM—NIE reportedly states that SS-18 is deployed with 14 warheads each instead of the allowed 10, adding over 1,230 warheads.

XI. Exceeding SALT II MIRV Missile Sublimits:

23. and 24. The Reagan Administration confirmed on August 7, 1987, that:

"The Soviets exceeded the SALT II sublimit of 1,200 permitted MIRVed ICBMs and MIRVed SLBMs when the 5th Typhoon submarine recently began sea trials. Moreover, some SS-X-24 MIRVed ICBM railmobile launchers should now be accountable under the SALT II sublimit on MIRVed ICBMs. It appears that the Soviets have not yet compensated for any of the SALT II-accountable SS-X-24 launchers. Therefore, the Soviets may also have exceeded the SALT II sublimit of 820 MIRVed ICBM launchers." This judgment has been further confirmed as accurate.

The Soviets reportedly informed U.S. arms control negotiators in Geneva in late 1983 that they intended to exceed the SALT II sublimits of 820, 1200, and 1320, which they are now in fact doing. And Soviet leader Gorbachev confirmed to President Reagan at the Iceland Summit on October 11, 1986, that the SS-24 was deployed.

Moreover, the Soviets are reportedly flight-testing the even heavier throw-weight follow-on to the super heavy SS-18 ICBM, in violation of the SALT II absolute ceiling on SS-18 throw-weight. This SS-X-26 ICBM, the follow-on to the SS-18, will certainly result in further excess MIRVing on the SS-18, because it will probably carry 20 warheads.

B. Presidentially Confirmed Expanding Pattern of Soviet SALT I Interim Agreement Break Out Violations—5 Violations:

1. Soviet deployment of the Heavy SS-19 ICBM and the Medium SS-17 ICBM to replace the Light SS-11 ICBM was a circumvention defeating the object and purpose of the SALT I Interim Agreement. Article II of the Interim Agreement prohibited Heavy ICBMs from replacing Light ICBMs. This violation alone increased the Soviet first strike threat by a factor of six.

2. Soviet deployment of modern SLBM submarines exceeding the Limit of 740 SLBM launchers, without dismantling other ICBM or SLBM launchers, which the Soviets actually admitted was a violation.

3. Soviet camouflage, concealment, and deception deliberately impeded verification.

4. Circumvention of SALT I by deploying SS-N-21 and SS-NX-24 long range cruise missiles on converted Y Class SLBM submarines which "is a threat to U.S. and Allied security similar to that of the original SSBN."

5. "The United States judges that Soviet use of former SS-7 ICBM facilities in support of the deployment and operation of the SS-25 mobile ICBM is a violation of the SALT I Interim Agreement."

As Defense Secretary Weinberger stated on December 11, 1986, "SALT I and SALT II have been largely irrelevent to the Soviet military buildup. Both agreements merely codified and authorized large increases."

C. Presidentially Confirmed Expanding Pattern of Soviet SALT I ABM Treaty Break Out Violations—Nine Violations.

1. The siting, orientation, and capabilities of the Soviet Krasnoyarsk ABM Battle Management Radar "directly violates" three provisions of the SALT I ABM treaty. The Soviets have privately admitted this violation to themselves.

2. Over 100 ABM-mode tests of Soviet SAM-5, SAM-10, and SAM-12 Surface-to-Air Missiles and radars are "highly probable" violations of the SALT I ABM Treaty. Two high Soviet officials have even admitted that their SAMs have been tested and deployed with a prohibited ABM capability. The Joint Chiefs of Staff have stated that the SAM-5, SAM-10, and SAM-12 all have a prohibited ABM capability.

3. The Soviets may be developing and deploying both a territorial, and a nationwide ABM defense, which violates the SALT I ban on developing even a base for a nationwide defense. President Reagan has stated that "this is a serious cause for concern." The Secretary of Defense has testified that the "Soviets have some nationwide ABM capability" already.

4. The mobility of the ABM-3 system is a violation of the SALT I ABM treaty.

5. Soviet rapid relocation without prior notification of an ABM radar, creating the Kamchatka ABM test range, and mobility of the ABM-3 radar, were violations of the ABM treaty.

6. Continuing development of mobile "Flat Twin" ABM radars, from 1975 to the present, is a violation of the prohibition on developing and testing mobile ABMs. The Soviets are now mass producing the ABM-3 system for rapid nationwide deployment.

7. Soviet ABM rapid reload capability for ABM launchers is a serious cause for concern. The State and Defense Departments state that the Soviets may have a prohibited reloadable ABM system.

8. Soviet deliberate camouflage, concealment, and deception activity impedes verification.

9. Confirmed Soviet falsification of the deactivation of ABM test range launchers is a violation of the ABM treaty dismantling procedures.

As Defense Secretary Weinberger stated on December 11, 1986, there has been: "The recent discovery of three new Soviet large phased-array radars of this type [the Pechora-Krasnoyarsk class]—a 50 percent increase in the number of such radars. These radars are essential components of any large ABM deployment. . . . The deployment of such a large number of radars, and the pattern of their deployment, together with other Soviet ABM-related activities, suggest that the Soviet Union may be preparing a nationwide ABM defense in violation of the ABM Treaty. Such a development would have the gravest implications on the U.S.-Soviet strategic balance. Nothing could be more dangerous to the security of the West and global stability than a unilateral Soviet deployment of a nationwide ABM system combined with its massive offensive missile capabilities."

D. Presidentially Confirmed Expanding Pattern of Soviet Violations of Nuclear Test Bans—Over Seventy Violations:

1. About twenty atmospheric nuclear weapons tests, August through September 1961, in violation of the 1959 Mutual Test Ban Moratorium, including a fifty-eight megaton shot.

2. Over thirty conclusively confirmed cases of Soviet venting of nuclear radioactive debris beyond their borders from underground nuclear weapons tests, in violation of the 1963 Limited (or Atmospheric) Test Ban Treaty.

3. Twenty four cases of Soviet underground nuclear weapons tests over the 150 kiloton threshold in probable violation of the 1974 Threshold Test Ban Treaty.

E. Presidentially Confirmed Expanding Pattern of Soviet Violations of Biological and Chemical Weapons Bans:

1. "The Soviets have maintained an offensive biological warfare program and capability in direct violation of the 1972 Biological and Toxin Weapon Convention." The United States has no defenses against this capability. The Sverdlovsk Anthrax Explosion of April 1979, killing several thousand Soviets, is direct evidence of this capability.

2. "Soviet involvement in the production, transfer, and use of chemical and toxic substances for hostile purposes in Southeast Asia and Afghanistan are direct violations of the 1925 Geneva Protocol." Tens of thousands of innocent men, women, and children suffered horrible deaths from these Soviet atrocities, which are also violations of the Genocide Convention.

F. Soviet Violation of the Kennedy-Khrushchev Agreement:

The Soviets are violating the 1962 Kennedy-Khrushchev Agreement prohibiting Soviet offensive weapons in Cuba because of the reported presence of 4 to 12 or more TU-95 Bear intercontinental bombers, more than 43 nuclear-delivery-capable Mig-27 Flogger fighter-bombers, several types of strategic submarines, over 200 nuclear-delivery-capable-Mig-21 fighter-bombers, and the Soviet Combat Brigade. President Reagan, the CIA director, the JCS chairman, and the Under Secretary of Defense for Policy have all charged that the Soviets are violating the agreement.

THE ABM TREATY—SUBSEQUENT PRACTICE

Mr. HELMS. Mr. President, along another line, last week the legal advisor of the Department of State, Judge Abraham D. Sofaer, issued the third and final portion of his study dealing with the negotiating record and the proper interpretation of the ABM Treaty. Considering the debates and the votes yesterday in this body on our role in treaty-making and its relationship to the ABM agreement, as well as our current consideration of S. 1174, I believe it is essential at this time at least to have a portion of Judge Sofaer's report made available for the RECORD, so that Senators, if they care to, can read it, and I hope they will, because Judge Sofaer's comments thus far, except for a few contrived, controversial aspects, have been pretty well kept secret in this town, particularly in the news media.

Part III of the legal adviser's overall study centers on the subsequent practice following the ratification of the ABM Treaty, particularly the conduct of the parties, the bilateral agreements and exchanges, and the public statements made by both sides between 1972, when the treaty was concluded and ratified, and 1985, when the President announced the results of a reexamination of the treaty in light of the negotiating record. It is the conclusion of the legal adviser, Judge Sofaer, with which I agree, because I believe it is a sound conclusion, well argued, and well presented, that the record of subsequent practice between the United States and the Soviet Union fails to validate the restrictive or narrow view of the ABM Treaty, as expounded by my good friend the distinguished Senator from Georgia [Mr.

NUNN]. Other critics of the administration have been perhaps even more vociferous than Senator NUNN.

As I have pointed out on several occasions, Mr. President, the ABM Treaty is ambiguous in the wording of the articles and clauses relating to future testing. That was also the conclusion of the distinguished Senator from Indiana [Mr. QUAYLE] in his excellent analysis delivered on the floor yesterday. It is clear that subsequent practice reveals that the meaning of the treaty language, especially the provisions resulting from last-minute compromises, such as agreed statement D, were not all that clear. For example, article II of the ABM Treaty contains the language: "of a type tested in an ABM mode." But there is no Russian language equivalent for the word "mode" and in the Russian text the phrase "of a type tested for ABM purposes" was substituted. These two statements do not mean the same thing, Mr. President, and the result is ambiguous. That is true of other parts of the treaty as well, if Senators will take the opportunity to look at it. That is why subsequent practice must be taken into account in the interpretation of the treaty and how it is to be applied.

As a general rule of international law, when there is a disagreement between the parties to a treaty as to the meaning of that document, as in contract analysis, subsequent practice is to be taken into account. Section 325 of the Restatement of the Foreign Relations Law of the United States (Revised), which represents the views of leading American scholars and jurists in the field of international law, declares that "subsequent practice between the parties in the application of the agreement is to be taken into account in interpreting the agreement." I.M. Sinclair, the former senior legal adviser to the British Foreign and Commonwealth Office, states that if the terms of a treaty are not clear, or are capable of more than one interpretation, than the context of the treaty, which includes subsequent arrangements or subsequent practice is relevant to determining the intent of the parties and the meaning of the treaty's terms. He adds that these additional factors have to be taken into account. As the legal adviser points out, in the conclusion of his study, during the 13-year period between 1972 and 1985, at no point "did the views stated by the United States and Soviet Union on the interpretation of the treaty coincide."

Mr. President, Judge Sofaer has made an important contribution to the legal analysis of the application of the ABM Treaty and its operation according to the rules of international law. It should be available to all interested Senators and others. As a matter of fact, I think it ought to be made available to the general public. It is extremely important that we be aware of this study in our debate on S. 1174. Unfortunately, the total document runs 133 pages and is too long to print in its entirety. The complete document has been sent to all Senators.

I ask, Mr. President, unanimous consent to have printed in the RECORD part III of the legal adviser's unclassified study of the ABM Treaty and its subsequent practice.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

THE ABM TREATY—PART III: SUBSEQUENT PRACTICE SEPTEMBER 9, 1987

I. INTRODUCTION AND SUMMARY OF CONCLUSIONS

This is the third of three parts of a study of the ABM Treaty's application to so-called "future" ABM systems. The purpose of this three-part study is to ascertain the Treaty's meaning on this issue. The first part, originally prepared in October 1985, and completed in May 1987, examined the Treaty language and negotiating history. It concluded that the Treaty text is ambiguous, and that the negotiating record establishes that the Soviet Union refused to agree to prohibit the development and testing of mobile ABM devices based on other physical principles ("OPP").

The second part, also completed in May 1987, examined the ratification record of the Treaty. It concluded that no change occurred in the international obligations undertaken in the Treaty through any condition, reservation, or understanding. It also found no basis in the Senate record to conclude that the Senate's consent to ratification was premised on a generally held intention that the Treaty prohibit development and testing of mobile OPP devices, or that the Senate had taken any action that would bind the President to the "restrictive" interpretation as a matter of domestic law. The study found, however, that the Senate record contains representations by Executive officers to the Senate which support the restrictive interpretation, upon which Senators could justifiably have relied in granting advice and consent. It concluded that the President should give appropriate weight to such representations and to any understandings reflected in the ratification record even though they may not be binding as a matter of law.

This third and final part of the ABM study examines the agreements and practices of the parties subsequent to ratification of the Treaty. It then describes and applies to the record of subsequent practice the controlling principles of international and domestic law.

This part covers all forms of subsequent practice potentially probative of the parties' intentions with respect to the regulation of OPP systems. It begins with the period immediately following the ratification of the Treaty, and proceeds up to the President's announcement in October 1985 of the results of a re-examination, in light of the negotiating record, of the meaning of the ABM Treaty as it applies to ABM systems and components based on OPP. An analysis of materials beyond October 1985 would in general have limited utility, because those materials have been widely published and because after that date the relevant materials largely consist of defenses of the interpretations presently at issue. It is noteworthy, however, that Soviet positions advanced since October 1985 differed in material respects from the restrictive interpretation held by the U.S. prior to that time.

This version of the study is unclassified in its entirety. A classified version has also been prepared, including material and appendices which could not be publicly released because of the need to protect intelligence sources and methods, and the confidentiality of certain diplomatic exchanges. The full classified version has been provided, under appropriate arrangements, to the Senate for examination by Senators.

A. The record of subsequent practice

An evaluation of the significance to be accorded any particular evidence of subsequent practice must be based on controlling legal principles, which are discussed below. One circumstance, however, deserves mentioning at this point. In general, actual conduct by the parties reflecting a common understanding of treaty obligations is entitled to much greater weight than mere statements separated from actual conduct. Likewise, conduct based on a consistent, common understanding of obligations is entitled to much greater weight than actions which cannot clearly be attributed to treaty considerations, or which are based on shifting, vague or inconsistent understandings. Despite the extensive collection of relevant materials in this study, there is little evidence of a pattern of conduct based on a consistent, common understanding of treaty obligations. Most of the evidence examined in this study consists of statements, usually unconnected with any action having probative worth. A principal reason for this has been the fact that the parties have not had the programmatic need or technological capacity for very long to develop and test OPP systems or components that are ABM-capable.

Further, it has often been impossible to ascertain whether conduct by the U.S. has been common with conduct of the Soviets. Soviet practice cannot be analyzed or evaluated in the same manner as U.S. practice. The Soviet Government publishes no reports of its BMD activities, and internal debates over the scope of Soviet obligations, if they occur, are never revealed. U.S. officials hold a variety of views concerning Soviet behavior in interpreting treaties. One view describes the Soviets as determined to construe their treaty obligations narrowly, but also to avoid or disregard such obligations whenever desirable, as reflected by construction of the Krasnoyarsk radar. Soviet statements concerning the ABM Treaty, moreover, must be regarded as potentially reflecting Soviet interests as perceived at the time each statement is made; this is clearly demonstrated by the variety of inconsistent positions taken by Soviet negotiators between 1972 and 1985.

For the purpose of analysis, the record of subsequent practice has been divided into four periods: (1) 1972–74, when the parties were initiating their compliance with the Treaty and sorting out basic issues; (2) 1974–78, when the parties conducted their first formal five-year review of the Treaty and negotiated important clarifying interpretations of some of its provisions; (3) 1978–83, when the Executive Branch began publicly to articulate the restrictive view of the Treaty, and to state its applicability to the pre-SDI research program on ballistic missile defense; and (4) 1983–85, when the President announced the SDI program and the U.S. stated that the restrictive interpre-

tation applied to the accelerated U.S. effort, while the Soviet Union began to attack SDI on various legal grounds and doubts as to the validity of the restrictive interpretation began to be expressed more widely within the USG.

Between 1972-74, a few public statements were made by either government concerning the ABM Treaty. During Soviet ratification proceedings, Soviet Defense Minister Grechko stated that the ABM Treaty did not preclude research and experimentation aimed at solving the problem of defending the country against nuclear missile attack. Other Soviet statements stressed the Treaty's ban on deployment of new systems, and disclaimed any binding effect to unilateral, U.S. interpretations.

A strong divergence of views within the Executive Branch, as to the proper interpretation, became evident during the formulation of the internal directive on compliance by the U.S. Government with the Treaty. This directive proceeded from a draft which would have embodied the restrictive interpretation in critical provisions, to a final version which was consistent with either view and left the issue of development and testing of mobile OPP devices for policy-level decision at such time as an OPP system became ready for testing. These changes resulted from disagreement or doubt about the restrictive interpretation in several offices within the Department of Defense; in particular, the three military branches expressed or suggested the view that the restrictive interpretation had been unilaterally assumed by the U.S.; at the same time, the Joint Staff stated that the instruction "appeared more restrictive than called for by the agreements and in other instances appeared ambiguous." Statements of Executive Branch officials before Congress in this period varied, but were essentially ambiguous. The former legal adviser to the SALT I delegation, John Rhinelander, articulated the restrictive interpretation in an unofficial published commentary.

Between 1974-78, the two sides engaged in bilateral discussions in various contexts which demonstrated the differences and uncertainties which still characterized their thinking on the OPP question. During the early phases of SALT II, the Soviets tabled a proposal regarding new strategic offensive systems based on other physical principles. The U.S. representative reported (after extensive discussion) that he could not ascertain whether the Soviets believed that all such arms should be banned in the absence of agreement to permit them, or permitted in the absence of agreement to ban them; the proposal was later dropped by the Soviets. In the course of these discussions, the U.S. representatives recalled that Agreed Statement D banned the deployment of OPP systems in the absence of agreement to the contrary, but the Soviet representative (Semenov, who led the USSR ABM Treaty Delegation) suggested that this might not be a correct reading of the Treaty.

During the negotiation in the SALT II Treaty of the definition of independently targetable reentry vehicles, the Soviets accepted the phrase "other devices" for the purpose of including in the provision's regulatory scope future, unknown devices that could serve the functions involved. The Soviets had rejected identical language proposed by the U.S. for the ABM Treaty, stating then that they opposed coverage in the ABM Treaty text of unknown, future devices. The Soviet SALT II negotiator explained that coverage of current and future ABM devices was achieved in the ABM Treaty through a combination of Article II(1) and Agreed Statement D.

USG preparations for the first formal ABM Treaty Review Conference in 1977 resulted in extensive interagency consideration of a proposal to seek clarification of the OPP question from the Soviets at the Conference. The records associated with this exercise show: (1) that no uniform interpretation of the Treaty existed within the USG, with ACDA advancing the restrictive interpretation, the DCI and the JCS Chairman questioning or rejecting such restraints, and OSD expressing uncertainty as to what the Soviets had agreed; and (2) that the U.S. remained unclear as to whether or not the Soviet Union agreed with ACDA's "understanding" of the Treaty's limitations on future ABM systems. The USG decided against raising this issue with the Soviets at the Conference. The issue of future systems was raised informally on instructions with a Soviet negotiator, however, who failed to confirm that any obligation existed under the Treaty concerning future systems beyond the obligation to discuss them in the SCC.

In 1978 the two parties concluded clarifying interpretations that dealt, among other things, with the meaning of "tested in an ABM mode" in Article II(1) of the Treaty. In this Agreement, and in many prior exchanges, the Soviets emphasized their view that ABM systems regulated by the Treaty were comprised exclusively of the three conventional components listed in Article II. In one provision of the clarifying interpretations, the parties agreed that, if an ABM interceptor missile were given the capability to carry out interception without the use of ABM radars for guidance, application of the term "tested in an ABM mode" would be subject to additional discussion and agreement in the SCC. The record of the discussion of this provision does not clearly indicate a mutual understanding by the parties of its implications: the Soviets made clear that they considered that if an ABM interceptor were given such a capability it would be part of a system based on OPP. The interpretation contemplates that the creation of such a system would be permitted, though the issue of the application of the phrase "tested in an ABM mode" would be subject to discussion and agreement. (Under either interpretation of the Treaty creation would be permitted, but under the restrictive interpretation testing would be limited to a fixed land-based mode.)

Three former U.S. SALT I negotiators made statements during this period supportive of or implying the restrictive interpretation in a written public debate on the issue; protagonists from the Hudson Institute and the Rand Corporation disagreed. Official publications of the USG for the period prior to 1978, including ACDA's "Arms Control and Disarmament Agreements" are ambiguous, and refer to the treatment of OPPs in Agreed Statement D as a matter separate and distinct from the treatment of mobile and space-based systems in Article V.

Between 1978-83, the Executive Branch stated its position on the interpretation of the ABM Treaty in various public Arms Control Impact Statements ("ACIS") published during that time. The 1979 ACIS (submitted on February 28, 1978) was prepared in ACDA, and articulated the restrictive interpretation of the Treaty. No legal study or memorandum concerning the Treaty or its negotiating history has been located that might have been used to support this result; a DOD suggestion that the conclusion representing only the "U.S. position" (and, presumably, not necessarily the Soviet position) was rejected on the ground that a public suggestion that the Soviets were not bound wold be misleading and unconstructive. Some additional ACIS—particularly those submitted between 1981 and 1983—also supported the restrictive interpretation in varying degrees, as did other Executive Branch reports to the Congress and some legal memoranda in the Department of State. Personnel at the Institute for Defense Analysis objected to early ACIS drafts for incorporating the restrictive interpretation. Some support for these objections was expressed in DOD, but in 1981 a staff-level DOD official prepared an internal review that confirmed the restrictive interpretation, which was approved by other staff-level officials in DOD. A decision was made against referring the issue to appropriate senior, policy-level officials for consideration. The 1981 internal DOD memorandum relied on incomplete study of the negotiating record. Similarly, the State Department legal studies relied on incomplete excerpts from the negotiating record, compiled within ACDA in 1980, and were conclusory on key issues.

During this period, Soviet negotiators noticed public reports of U.S. BMD activities, as well as commentary on possible future plans. They complained that such activities and plans were undesirable. They did not, however, articulate a coherent view of the Treaty consistent with the restrictive interpretation.

President Reagan's announcement of the SDI program in March 1983 promised that the program would be conducted within the confines of the Treaty, but did not address which activities beyond research but short of deployment were lawful. Some Executive Branch statements after the SDI announcement supported the restrictive interpretation. These statements indicated that the Executive Branch held the restrictive view, and that the SDI program was consistent with it. Other Executive reports and statements during the same period were ambiguous.

Actions taken by the U.S. in the SDI program through October 1985 were consistent with the restrictive interpretation. During this period, the U.S. stated that its development and testing activities had been designed to be consistent with that interpretation. Those involved in the management of SDI programs found: that the tests planned or conducted required no adjustments for reasons related to the Treaty because the devices involved either were of a type that did not require exceeding the restrictive interpretation or were not ABM components (lacked ABM capability and were not tested in an ABM mode); that the objectives of the SDI program could be met during this period within the restrictive interpretation; and that in any event the U.S. was not technically capable at that time of changing the test program in ways that would go beyond the restrictive interpretation and at the same time offer significant program advantages.

Prior to October 1985 only one series of SDI tests arguably involved an ABM system or device based on OPP (the Homing Overlay Experiment, or HOE); that test would not have been conducted differently under the broad interpretation because it involved the testing of a fixed land-based ABM system. Otherwise, only planning for future

tests (such as the Delta-180 test in September 1986) was affected by the restrictive interpretation during this period.

During 1984 and 1985, certain developments led to a determination within the Executive Branch that the OPP question deserved greater study than it had previously been accorded. DOD officials charged with SDI responsibilities sought guidance on the Treaty's scope and received conflicting advice. U.S. negotiators in talks with the Soviets were puzzled by certain Soviet positions and advised further study of the negotiating record. These and other activities led to substantial differences of views within the Executive branch, causing Secretary of State Shultz to order the Legal Adviser to prepare a report on the subject. The Legal Adviser's October 1985 review of the Treaty text and negotiating record, and the opinions on that study of all relevant policy-level officials in the Administration, formed the basis for President Reagan's decision of October 1985 that a broader interpretation of the Treaty was fully justified. The President also decided, as a matter of policy, that is was then unnecessary to restructure the SDI program in a manner consistent with the broad interpretation.

Congress responded to the President's Strategic Defense Initiative by adopting appropriations for the SDI program that were not conditioned on any interpretation of the Treaty. Congress did, however, legislate and appropriate funds after Executive representations were made that the program would be consistent with the restrictive interpretation.

The SDI announcement caused a dramatic increase in the attention given by the Soviets to the OPP issue. They reformulated their position on the ABM Treaty and advanced several different arguments in an effort to attack the SDI program. Their position has consistently been in support of an interpretation narrower than the restrictive interpretation. They have stated, for example, that research, as well as development and testing, on space-based OPP systems and components, is inconsistent with the Treaty. They advanced other more restrictive interpretations, which would limit in various ways the scope of research permitted on space-based OPP systems, and prohibit all research, development and testing intended ultimately to provide a territorial defense.

These different viewpoints were argued at length in bilateral discussions, but were never resolved. At no time have the Soviets accepted the restrictive interpretation. Furthermore, while the Soviet positions would have the effect of prohibiting development and testing of space-based OPP devices, the Soviet argument regarding Article II(1) was consistent with the broad interpretation, and its views of Article V(1) were, before October 1985, inconsistent with any position ever held by a U.S. official and have no basis in the Treaty text or negotiating history. Since October 1985, they have adopted a functional definition for ABM systems consistent with the restrictive interpretation of Article II(1). However, their interpretation of Article V(1) prohibitions remains more restrictive than the restrictive interpretation.

No clear evidence has been developed as to what interpretation the Soviets have applied in practice to their own BMD programs. Existing evidence does not convincingly establish that the Soviets have advanced to the development stage with respect to mobile OPP ABM systems; but in light of existing limitations, a confident judgment on this issue is presently impossible. Available evidence clearly establishes, however, that Soviet BMD activities have included research, development and testing of types which they have characterized as inconsistent with the Treaty. The Soviets also plainly violated the Treaty in proceeding with deployment of the Krasnoyarsk radar.

B. Legal conclusions

1. *International legal obligations*

International law requires consideration of subsequent agreements and conduct of the parties in construing a treaty, particularly to resolve ambiguities. The strength to be accorded such practice depends upon the evidentiary value of particular activity on the issue being examined. In general, concurrent conduct, reflecting agreed understandings, is entitled to much greater weight than unilateral statements communicated by one party to another; internal deliberations are entitled to little if any weight in ascertaining an agreed understanding. Written agreements represent a particularly valuable source of subsequent conduct, and conduct tends to have greater weight when it is closer in time to the agreement being construed.

The record of subsequent conduct of the parties to the ABM Treaty does not establish that the parties had intended in 1972 to prohibit the development and testing of mobile OPP devices. It does, however, provide important insight into the parties' understandings of these issues, at various points, and as they developed over time. These understandings must be considered in arriving at any final judgment on the interpretation of the Treaty.

During negotiation of clarifying interpretations and at other times between 1972 and 1978, the Soviets repeatedly expressed the view that the Treaty was intended to regulate conventional ABM systems. U.S. negotiators disagreed with this view, but accepted the Soviet text in this respect for purposes of the interpretations. These agreed provisions may be read as lending support to the broader interpretation and are entitled to substantial weight in the interpretation of the Treaty. One of the interpretations also contains a provision that deals with an ABM missile that is guided without an ABM radar. The Soviets insisted upon treating the substitute guidance system in the same manner as OPP, making the testing in an ABM mode of such a system subject to discussion and agreement. These agreements relate only to particular aspects of the OPP problem, however, and therefore establish no definitive interpretation of the Treaty's application to development and testing of mobile ABM devices based on OPP.

Apart from the formal agreements of the parties, their exchanges, statements, and conduct on matters relating to the OPP question do not evidence a common and consistent understanding of the Treaty interpretation question. The U.S. position in bilateral discussions before October 1985 appears to have been consistent with the restrictive interpretation throughout this period; U.S. negotiators on several occasions indicated a view consistent with reading Article II(1) and the Treaty proper to regulate OPP systems and components.

Substantial doubt and disagreement, nevertheless, was expressed within the USG at various times throughout this period on the OPP question. These internal doubts and disagreement show that positions implying the broader interpretation were supported throughout the period by knowledgeable individuals. The doubts expressed concerning the restrictive interpretation principally took the form of questioning whether the Soviets had agreed to it. Soviet statements and contentions, particularly during the 1972-79 period, lent credible support to these internal USG doubts, since these statements indicated that the Soviets did not share the restrictive interpretation. Internal evidence is entitled to little, if any, weight under international law, however, as it cannot be treated as common or concordant conduct, establishing agreement as to what the parties meant in 1972 with respect to the interpretation of the Treaty. But the evidence of internal doubt, combined with a lack of Soviet confirmation, reflected the absence of any commonly held view.

The Soviet position in bilateral discussions has changed substantially between 1973 and 1985, evidently in response to the Soviet perception of its national interests. During the period from 1972 to 1978, Soviet negotiators repeatedly took the position that Article II(1) of the Treaty defined ABM systems within the Treaty text as only those consisting of ABM interceptor missiles, launchers, and radars; they never during this period indicated agreement with the restrictive view, and on at least two occasions failed to respond to opportunities to confirm that even the deployment of OPP devices was banned. Soviet statements began to change only around 1979, when the U.S. published extensive descriptions of its expanded BMD activities and plans; Soviet views shifted dramatically in 1983 after President Reagan announced SDI, when Soviet negotiators expressed views of the Treaty, based primarily on Article I(2), more restrictive in material respects than those of the U.S., and on an interpretation of Article V(1) which lacks any basis in the Treaty or its negotiating record.

Actions taken by the U.S. in its BMD programs through October 1985 (including the SDI program) have been consistent with the restrictive interpretation. This fact does not necessarily indicate a subsequent practice establishing agreement of the parties. During this period, the U.S. explicitly stated that its development and testing activities had been designed to be consistent with the restrictive interpretation. These tests required no adjustments for reasons related to the Treaty, however, because the devices involved either were of a type that did not require exceeding the restrictive interpretation or were not ABM components (lacked ABM capability and were not tested in an ABM mode). The objectives of the SDI program could be met during that period, moreover, within the restrictive interpretation, and the U.S. in any event was technically incapable at that time, in the view of SDI officials, of changing the test program in ways that would go beyond the restrictive interpretation and at the same time offer significant program advantages. Prior to October 1985, only planning for future tests was affected by the restrictive interpretation. Finally, these activities were conducted consistent with the restrictive interpretation because that view of the Treaty was reflected in the FY79 ACIS, and supported in some subsequent ACIS, without sufficient study.

No comparable record exists with respect to Soviet structuring of its BMD program. We have insufficient evidence to determine whether the Soviets reached the stage at which development and testing activities inconsistent with the restrictive interpreta-

tion would have been feasible and useful, but were not undertaken for reasons of Treaty compliance; the Soviets may, moreover, have conducted tests or advanced devices without U.S. detection. Soviet BMD activities, including research and experimentation clearly oriented toward possible future mobile OPP systems, have certainly been inconsistent with the more restrictive views advanced by the Soviet side since announcement of the SDI program (e.g., that the Treaty prohibits research into ABM devices the deployment of which is prohibited). They have also deployed a radar at a place where radars of that type are prohibited under any interpretation of the Treaty.

This record of subsequent practice establishes no binding international legal obligation by the U.S. and the USSR to follow the restrictive interpretation. At no time have U.S. and Soviet views coincided on the application of the Treaty to OPP systems. During the period from about 1983 to October 1985 the statements of the U.S. and the Soviet Union, though based on different theories, would both have had the result of precluding development and testing of space-based (and presumably other mobile) OPP systems, despite their disagreement on other aspects of the problem. The Soviet view during that period, however, was based on a reading of Article II(1) that is inconsistent with the restrictive interpretation, and in fact supports the broader view, and on a reading of Article V(1) which is radically different from any advanced by the U.S. and which lacks support in the Treaty language or negotiating history. Only after October 1985 when the broad interpretation was found fully supported by the U.S. Government did the Soviets adopt a functional definition for Article II(1). However, their interpretation of Article V(1) prohibitions remains more restrictive than the restrictive interpretation. Furthermore, this period represents less than three of the fifteen years since the entry into force of the Treaty. Finally, insufficient proof exists that the parties engaged in conduct probative of the restrictive view that was consistent and common. The parties appear to have been incapable of the most probative forms of conduct during most if not all the period from 1972 to 1985; and we have insufficient evidence in any event to judge whether Soviet behavior was in fact consistent with the restrictive view.

2. *Domestic legal obligations*

As discussed in pp. 42-55 of Part II of this study, the interpretation of a treaty for purposes of domestic law is based, in the first instance, on the principles of international law that govern treaty interpretation. In some respects, however, the obligations of the President under U.S. law with respect to the interpretation of a treaty may draw upon additional considerations, due to the allocation of governmental powers under the U.S. Constitution.

No special preference is given under international law to the interpretations of a treaty made by governmental authorities of either party. In applying the provisions of a treaty for purposes of domestic law, however, U.S. courts will typically give great weight to any reasonable interpretation articulated by the U.S. Executive Branch. As explained in Part II, this results both from the normal deference given to Executive agencies in interpreting federal statutes, and from the special deference given to the President in the interpretation of treaties as an aspect of conducting the nation's foreign affairs. While longstanding interpretations by the Executive Branch must be accorded great weight, the Supreme Court has also accorded great weight to an interpretation even though it had not been previously maintained by the Executive Branch.

The President is obliged under U.S. law to comply with constitutionally valid legislation enacted subsequent to the ratification of a treaty, even if it is inconsistent with U.S. international obligations under the treaty. Similarly, communications between the Executive Branch and Congress subsequent to ratification, while usually of little weight under international law, are likely to be given more serious consideration by U.S. courts in the interpretation of treaty provisions for domestic law purposes.

As noted in Part II, the interest in avoiding non-mutual international obligations should be weighed against finding that the President has domestic-law obligations different from those that are binding on the other treaty partner. Furthermore, the President's powers to interpret treaties and to conduct foreign affairs should not be limited absent clear indication that such limitations were specifically intended. On the other hand, while legally binding limitations on Executive discretion are disfavored, the President must give proper weight in exercising his powers to all relevant matters and evidence, including Executive Branch representations to Congress, and indications of legislative reliance on such representations.

Nothing in the record of subsequent practice of the ABM Treaty binds the President as a matter of domestic law to the restrictive interpretation. Nonetheless, a substantial number of Executive representations have been made to Congress, beginning with the 1979 ACIS, and lasting until late 1985, which support the restrictive interpretation to one degree or another. Relevant statements include those made by SDIO in its 1985 annual report (completed while the Executive Branch was beginning its first comprehensive review of the negotiating record). Congressional appropriations for SDI during FY 1985-86 were not expressly conditioned on any interpretation of the Treaty; however, Congress has legislated and appropriated funds with these representations on the record, arguably creating an expectation that the restrictive view would continue to be followed. Since October 1985, Congress appropriated funds for FY87, but did not condition their expenditure on continued observance of the restrictive interpretation. The body of substantial evidence that supports the broader interpretation has been essentially internal, and only after completion of a legal review in October 1985 has the Executive clearly articulated the broader view and communicated to Congress the evidence and arguments that support it.

The President should give appropriate weight to Executive representations made to Congress, and expectations developed by legislators, during the post-ratification period, in determining and exercising his lawful discretion to interpret the ABM Treaty. Congress, on the other hand, is also constitutionally obligated, in exercising its constitutional powers, to weigh in good faith the full record of evidence relevant to the ABM Treaty's lawful interpretation, and to defer to reasonable Executive judgments as to the meaning of such evidence, including evidence of subsequent conduct.

Mr. HELMS. Mr. President, I yield the floor, and I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. THURMOND. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. THURMOND. Mr. President, I have listened to the debate and speeches in this body over the past 5 months about the correct interpretation of the ABM Treaty, and whether the development and testing of advanced strategic defense technologies are permitted by this treaty. We have also heard a great deal about the constitutional role of the Senate in giving its advice and consent.

In my judgment, what the Levin-Nunn amendment comes down to is what course of action best serves our national security interests. What effect will this provision have on the Strategic Defense Initiative [SDI] Program, and on the prospects for achieving deep reductions in the numbers of nuclear weapons?

During the discussion of his legal analysis of the ABM treaty, my friend and colleague from Georgia, Senator NUNN, said "* * * the American public and our allies need to understand that if we cannot solve current strategic vulnerabilities through arms control or our own strategic programs, we may have no recourse but to consider deploying some form of strategic defense." I think it is already clear that strategic defenses must be an essential and permanent element of the strategic balance. I thought so 15 years ago when I noted during the ABM Treaty ratification debate that the treaty "effectively prevents us from ever having the means to protect our population from a Soviet first strike."

When the ABM Treaty was signed in 1972, Ambassador Gerard Smith asserted on behalf of the United States that the limitations on ballistic missile defenses contained in the treaty would not serve our strategic interests unless strategic offensive arms were significantly reduced within 5 years. It is now 15 years later, and we all know that the promised follow-on reductions in offensive forces have not been realized. Instead, Soviet strategic offensive capabilities have multiplied, not decreased, as has the threat these systems pose to our own deterrent capability. In view of the failure of the SALT I/ABM Treaty formula to provide adequately for our security, we must now reconsider the contribution that strategic defenses can make in our deterrent posture.

There is another compelling reason for us to reconsider the role of strategic defenses in our security posture—that is the vast Soviet strategic defense research, developments, and de-

ployment program. Again, during the ABM Treaty ratification debate, I noted that the "Treaty overlooks the fact that present ABM deployment in the United States and the U.S.S.R. is not symmetrical." The situation is far worse today. In the past 10 years, the Soviets have spent an estimated $150 billion on strategic defense—15 times as much as the United States has spent. The Soviets have the world's only operational ABM system around Moscow, which they have been modernizing and expanding. They have also violated a central provision of the ABM Treaty with the Krasnoyarsk radar. Taken altogether, Soviet strategic defense activities raise the concern that they may be preparing an ABM defense of their national territory—the very thing the ABM Treaty was designed to prevent.

If we fail to respond to the threat posed by Soviet strategic offensive and defensive programs, the implications for our security will be very grave. To respond, we must be able to explore and develop our own strategic defense technologies in the most expeditious and effective manner possible. In the current budget environment, we should insist on no lesser standard of performance from the SDI program. It is in this regard that requiring by statute that the President follow the more restrictive of two plausible interpretations of the ABM Treaty, which would be the practical effect of the Levin-Nunn proposal, becomes very important.

The broad interpretation would permit us to delay a decision on fundamentally altering the ABM Treaty regime by several years until we had confidence that the technologies which we had developed would meet our criteria for deployment. Under the restrictive interpretation, the United States would be forced to make a decision to alter fundamentally the treaty regime simply to complete the testing portion of the research program.

Under the broad interpretation the United States is allowed to conduct research, development, and testing to maximize confidence in the feasibility of strategic defenses. Specifically, this interpretation would allow the program manager to design realistic tests to integrate fully capable weapons, sensors and battle management/command, control and communication.

The broad interpretation would reduce costs significantly and allow for greater efficiency. This is accomplished through integrated testing using the most capable hardware, as opposed to piecemeal testing. We estimate that it would save 2 years in the research program and at least $3 billion dollars in establishing the feasibility of an initial defense against ballistic missiles.

Under the broad interpretation, confidence in defense feasibility would increase much faster than under the restrictive interpretation, thereby permitting an earlier decision on the desirability of defenses.

The broad interpretation of the treaty would significantly reduce program uncertainty caused by the inherent ambiguities of the treaty under the restrictive interpretation.

The broad interpretation of the ABM Treaty would allow the United States to retain the option to deploy strategic defenses in the mid-1990's. Even under ideal conditions, the restrictive interpretation would delay deployment until the late 1990's.

In addition to the greater expense of the restrictive interpretation, each month this Nation continues under the restrictive interpretation imposes a 1½ to 2-month delay in the deployment of defenses based upon the results of SDI research.

These findings, which have been presented in briefings and testimony to the Subcommittee on Strategic Forces and Nuclear Deterrence, make clear that restructuring the SDI program to take advantage of the broad interpretation of the ABM Treaty provides advantages from the point of view of cost, schedule, and confidence in the results of our SDI program. While we debate these legal technicalities, there can be little doubt that the Soviets are pursuing their own version of the SDI program unimpeded by such internal debate.

Mr. President, in the end, SDI testing is not primarily a legal or constitutional question but a political one. Should the United States pursue the development of strategic defenses for deployment as quickly and as efficiently as possible, or should we be unilaterally bound to an interpretation of the ABM Treaty that costs us time and money? I think the answer to this question is clear—we should enhance our security through strategic defenses as quickly as we can.

The Levin-Nunn amendment, by requiring as a practical matter that the President follow the more restrictive of two plausible interpretations of the ABM Treaty, would legislate inefficiency in the program at a time when we should be getting the most for our scarce defense dollar.

Mr. President, I urge the adoption of the amendment to strike the Levin-Nunn amendment.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. EXON addressed the Chair.

The PRESIDING OFFICER. The Senator from Nebraska.

Mr. EXON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The remarks of Mr. EXON are printed later in the RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mr. WIRTH. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WIRTH. Mr. President, thank you very much.

Mr. President, section 233 of the Department of Defense authorization bill for fiscal year 1988, as reported by the Senate Armed Services Committee, prohibits the use of funds for the development and testing of anti-ballistic missile [ABM] systems or components which are sea-based, air-based, space-based or mobile land-based, unless the President submits a report to Congress specifying the systems he proposes to develop and test, and Congress passes a joint resolution to so authorize. The provision is based on language in the 1972 ABM Treaty.

OPPONENTS OF THE LEVIN-NUNN PROVISION ARGUE

Passage of the Levin-Nunn provision would represent a major concession to the Soviets by preventing development and testing of systems the Soviets fear without extracting similar concessions from them. Critics further argue that Levin-Nunn undercuts the administration's hard bargaining line in other ongoing negotiations.

THE LEVIN-NUNN PROVISION DOES NOTHING OF THE SORT

The administration has not requested funds for the development and testing of mobile land, sea, or space-based ABM weapons. In fact, the administration indicated in hearings that it did not intend to request funds for such systems. The Levin-Nunn provision simply asserts the right of Congress to consider such a request before approving the expenditure of funds for such purposes. Asserting Congress' right to authorize and appropriate funds for national defense in no way undermines the administration's bargaining position on arms control. Indeed, this provision provides for expedited consideration of requests to authorize funds for the strategic defense initiative in the event that the arms control climate changes.

OPPONENTS OF THE LEVIN-NUNN PROVISION ARGUE

The provision is unconstitutional because it interferes with the President's "sole authority" to the implement and abrogate treaties. Furthermore, opponents of the provision contend it gives the House of Representatives authority in the treaty making process, something for which the Constitution does not provide.

THE LEVIN-NUNN PROVISION DOES NOTHING OF THE SORT

The Levin-Nunn provision does not interpret the treaty, it simply limits the expenditure of funds—a power well within the authority of the legislative branch. It is a power the House shares with the Senate. The provision does not grant the House a veto of any interpretation of the ABM Treaty or any other treaty. This argument is a red herring dragged across the trail of this debate to divert attention from the fact that the administration is seeking carte blanche on SDI spending.

If, on the other hand, this provision does have the effect of blocking an attempt by the current administration to reinterpret preemptively a treaty ratified by the Senate, then so be it. If this administration is successful in such an endeavor, the constitutional role of the Senate in the treatymaking process—one of the brilliant checks and balances our forefathers wrote into the Constitution to guard against the excesses of an overmighty executive—would be undermined, and the credibility of the United States in the international arena would be eroded. How could our allies—and even more importantly, our adversaries—be assured that they could securely enter into agreements with a country that reserves to itself the option to reinterpret treaties purporting to have the force of law. I detect some irony in the fact that this administration, that has repeatedly advocated restraint and conservatism in interpreting the Constitution, and which has emphasized its claim that it is nominating a strict constructionist to the Supreme Court, is attempting to broadly interpret a treaty and thereby remove the Senate from its constitutional role in the treatymaking process.

OPPONENTS OF THE LEVIN-NUNN PROVISION ARGUE

The provision prevents planning of and research on systems integral to SDI, thereby effectively slowing development of SDI and forcing us to continue to rely on the doctrine of mutually assured destruction. They further argue that this provision leaves the United States naked to a Soviet breakout in the field of ABM technology.

THE LEVIN-NUNN PROVISION DOES NOTHING OF THE SORT

The Levin-Nunn provision prevents the expenditure of funds for the development and testing of mobile land, sea or space-based weapons prior to congressional consideration of a specific authorization request. Opponents of the Levin-Nunn provision would have us believe that this means no money can be spent on research for these kinds of systems. Since 1985 SDI has received $8.6 billion for research and has used it to advance research on directed energy weapons—laser beams, kinetic energy weapons—rockets and other projectiles that destroy by impact, sensors for identifying and tracking targets, and computers and communications systems for controlling an ABM system. Enactment of the Levin-Nunn provision will not do a thing to halt these efforts. Neither will that provision prevent a United States response to a Soviet breakout from the terms of the 1972 ABM Treaty. To the contrary, this bill directs the Strategic Defense Initiative Office to fully fund near-term deployment options for just such a contingency. By the same token, we should be careful not to rush into premature development and testing of these costly technologies. The expense of development, testing and early deployment of near-term SDI technologies may well, in our current circumstances of fiscal constraint, have the unintended consequences of freezing further research of future technologies on which could be built an effective ballistic missile defense system and not some fictional "star wars" system that some would have us believe is just around the corner. Sometimes you have to start slow to go fast. Burning rubber at the start just wears out the tires.

The Levin-Nunn provision does none of these things its detractors claim. It is prudent legislation that imposes modest restriants on a program that otherwise threatens to be a runaway train—a potential black hole—that could consume an increasingly disproportionate share of defense dollars. I have concluded that the real objections to the Levin-Nunn provision by the administration and its supporters are that it constrains their ability to pursue their SDI objectives without consulting Congress, and that it blocks an effort by the executive branch to play fast and loose with the treatymaking provisions of the Constitution.

I ask to speak at this point, having sat in the Chair for a good period of time this morning and again yesterday as we were discussing the filibuster. And I was struck on this day of the 200th anniversary of the Constitution by themes that were being debated and are being debated here today which are more than familiar and are an absolute reflection of the wonders of our political system and the strengths of our constitutional system.

Three issues have come up over and over and over again in this debate, three issues that we can I think all be proud to debate whether we are on one side of the issue or another. I happen to agree with Senator LEVIN and Senator NUNN. But let me just touch on those three as I was sitting, particularly in the last 2 days, and observing them and particularly on this historic day.

First, the suggestion that we in the Congress ought to provide the funds to the administration, sort of put it on the stump in the middle of the night and get out of there or that they would like to take the money and run.

The administration—and this country for 200 years—has always wanted it that way. And the Congress has always said, "Wait a minute, we have a responsibility to put our stamp on it." The conflict has existed for 200 years and I hope it will exist for 200 years more as to who has the power over the purse. That was in part this debate yesterday and today—take the money and run, or the power of the purse.

The second major issue that is being debated today and last night was the issue of the power, the strength and the role obviously of the U.S. Senate, and the issue of advise and consent. On foreign policy and arms control it is very clear that we in the Senate believe that there is an extraordinarily powerful and important role for us to play. The administration would like—and if you were the administration, I suspect you would argue the same thing—to diminish that role. How powerful should we be; what is our role; how much do we have to say? That is also a theme that has been debated for 200 years, and I hope will be debated for 200 years more.

The third issue which perhaps may be long term—long term being the next year, 2 years, 3 years, 5 years—and the most important relates to the authority of the Senate and the role of the Senate in treaties. What would be the perception around the world? I think if the United States singularly through the executive branch were able to change the meaning of treaties, what is the role of the U.S. Senate in conducting our foreign policy?

Three themes have been debated, Mr. President, in the last day, and many others as well. But again I get up to comment on this point. I hope we are going to come to a vote pretty quickly but I get up to comment on observing what has been going on for this period of time on this special day in our Nation's history, issues that we have been debating here that go right to the heart of our constitutional system, right to the heart of the whole question of balances between the executive branch and the congressional branch.

I thank you very much for your indulgence while I made these very brief remarks.

LEVIN-NUNN LANGUAGE TO LIMIT TESTING OR DEPLOYMENT OF SDI IN VIOLATION OF THE ABM TREATY

Mr. LEAHY. Mr. President, I rise in support of the Nunn-Levin language in the defense authorization bill. Before turning to the substance of this extremely important arms control issue, I must state for the RECORD that the 4-month filibuster of the motion to take up the defense bill is one of the most

bizarre and disturbing exercises I have witnessed in my dozen years in the Senate.

For months, loyal, patriotic members of the Republican Party refused to allow the Senate to consider the 1988 defense budget—the bill that provides over $300 billion to defend the United States. There is real concern that some may even yet attempt to kill the Levin-Nunn provision, as well as other arms control measures, by stalling the defense bill until the Senate is forced to move to other urgent items, such as the debt limit extension, the reconciliation bill, and other matters.

Their objection is not that the bill authorizes too little ammunition for our troops, or too few nuclear missiles or bombs, or not enough destroyers or fighter planes. The reason for this extraordinary filibuster is a single sentence relating to the ABM Treaty in a 218 page bill.

The sentence—the so-called Levin-Nunn language—reads:

> Funds appropriated or otherwise made available to the Department of Defense during Fiscal Years 1988 and 1989 may not be obligated or expended to develop or test anti-ballistic missile systems or components which are sea-based, air-based, space-based, or mobile land-based.

There is more, setting up a way for the President and Congress to set this restriction aside. But this is the heart of the issue.

I urge my colleagues to read that sentence closely, because maybe there is some large misunderstanding which is causing the Senate to spend so much time on an issue which should cause little or no controversy.

As I look at this language, three things are apparent to me:

First, it requires the President to obey the law.

The ABM Treaty, signed in May 1972, and ratified by the Senate, is international law and the law of this land.

That treaty permits each side to develop, test or deploy only ABM systems or components which are land-based and fixed. It allows each side to defend one site with 100 land-based, fixed ABM launchers and interceptors.

Everything else—nationwide ABM defense, development, testing or deployment of mobile land-based, air-based, sea-based or space-based ABM systems or components, or development, testing or deployment of exotic ABM technologies based on "other physical principles" not known in 1972—is prohibited.

You do not have to be a constitutional scholar or strategic expert to see at once that this is a huge legal barrier to the President's dream of a space-based, nationwide, death ray defense against ballistic missiles. As long as the ABM Treaty is accepted to prohibit what its words convey, star wars cannot get very far out of the laboratories.

The U.S. Senate—and our entire Nation—owes a great debt to the chairman of the Armed Services Committee, Senator NUNN, for making this point so abundantly clear in his authoritative studies on the subject.

Second, it withholds funding for 2 years for activities that the administration concedes could not be carried out during this period in any event.

A Martian who suddenly dropped by to observe the Senate in action could be forgiven for being a little puzzled about this cosmic debate.

The bill would not authorize funds for certain SDI tests that the administration says it could not conduct within the next 2 years anyway.

General Abrahamson, the head of the SDI Program, testified to Congress that he can carry out the President's research and development program for at least the next 2 years without violating the so-called traditional interpretation of the ABM Treaty.

Third, it defers—rather than settles—the issue of the traditional versus the broad interpretation of the ABM Treaty.

The original Levin amendment, as I understood it, would have prohibited funding for any activity which would violate the traditional interpretation of the ABM Treaty, this is any development or testing of the space based kinetic kill system the administration has fixed on.

The Levin-Nunn compromise draws back from the flat prohibition on violating the traditional interpretation of the ABM Treaty. It in effect defers the issue of which interpretation is correct, and provides a mechanism for the President to set aside the funding restriction and carry out tests, with the approval of Congress, that would go beyond the traditional interpretation.

Frankly, I consider this dodging of the basic issue a flaw in the Levin-Nunn language. It fails to quash once and for all the Reagan administration's attempts to rewrite the meaning of a treaty that was ratified by the Senate 15 years ago. If the U.S. Senate's role in ratifying treaties is to remain more than a formality, I believe we should be reaffirming our equivocal commitment to the ABM Treaty as presented to the Senate during the ratification process in 1972.

However, I will join my good friends, the Senators from Michigan and Georgia, in voting against efforts to strike or weaken their provision in this defense bill. Deferral of the issue for 2 years and continuation of the traditional meaning of the ABM Treaty for that period is certainly far better than leaving the administration a free hand to gut the treaty. But, let the record be clear that I would rather settle the issue here and now that the ABM Treaty means what it says, and the United States has entered into a solemn international commitment to abide by that clear meaning.

Mr. ADAMS. Mr. President, for the last few months we have been debating, in one form or another, a number of critically important questions related to the role of the Senate in the treaty making process and to the proper interpretation of the ABM Treaty. Those are interesting questions, and I would be delighted to join that discussion, but I would submit that neither question is relevant to the specific language proposed by Senators LEVIN and NUNN or to the motion by Senator WARNER to strike that language.

I have looked carefully at the Levin-Nunn language. I have studied the report of the Armed Services Committee on this language. I have listened to the two authors of the language discuss it on the floor. And while one can certainly agree that the language is a response to the administration's new interpretation of the ABM Treaty and their advocacy of the broader reading of the treaty, the Levin-Nunn language does not seek to endorse or reject the administration's interpretation. All it says is that the administration must come to the Congress and get specific authorization for funds to be spent on projects which are allowed under their reading of the treaty but prohibited under the traditional interpretation of the ABM agreement. It does not say that the administration is precluded from making such a request. It does not say that the Congress will not approve such funds. In short, it does not in any way prejudge the issue; it simply protects the right of the Senate, at the appropriate time, to make a judgment.

That is all it does, and that is what the Congress has always done.

We did this on the MX missile and dozens of other weapons systems. We have done it in other policy areas. And hopefully we will continue to do it. This is nothing more than using the power of the purse—the unquestioned power of the Congress.

I can understand why supporters of the broad interpretation of the ABM Treaty and supporters of early deployment of SDI might oppose the Levin-Nunn language, but I would tell them that the Levin-Nunn language does not prevent early deployment nor does it deny the possibility that the President's interpretation of the treaty is correct, even though I do not accept or agree with the President's attempts to reinterpret this treaty.

Earlier this year, Senator BIDEN introduced legislation, which I was pleased to cosponsor, which did reach the conclusion that the President's interpretation is incorrect. But the Levin-Nunn language does not do that.

Listen to the language of the Committee report: "Without prejudging the wisdom and desirability of undertaking testing, development and deployment of mobile/space-based ABM's using exotic technologies, it is imperative that Congress in general—and this committee in particular—examine in detail any proposed expenditures that would involve such a substantial change in policy." That does not say that the President is wrong in his reading of the treaty or that Senators LEVIN and NUNN are right. It says we do not want to make that choice now.

Beyond that, as the committee report indicates, we do not need to make that choice now. As the committee report makes clear, delaying a decision in this bill does not have a practical impact on existing plans. The committee report indicates that "the administration has stated that its research and development program for the Strategic Defense Initiative complies with the prohibition on testing and development . . . [and] the administration has not requested any funding for fiscal years 1988 or 1989 to test or develop mobile/space-based ABMs using exotics." In short, even if the Levin-Nunn language was a prohibition—and, again, I do not believe that is an accurate characterization—it would prohibit something which the administration does not intend to do anyway.

There are, however those who claim that even if the Congress is acting within its constitutional right to exercise the power of the purse in this regard, it ought not use that power. They believe that such an action unjustly restricts the President's ability to negotiate with the Soviets. Well that is not the conclusion of the committee. Their report indicates that "the committee believes this feature [the waiver of the prohibition by a vote of both Houses of Congress] will give the President flexibility in arms control negotiations." Indeed, the comittee was so concerned about the negotiating flexibility that the Levin-Nunn language gives the President that it warned that "it would be a serious mistake, however, for the administration to view this section as an invitation for it to implement the so-called new interpretation of the ABM Treaty or to proceed with an early deployment scheme for SCI." On balance, then, I believe the Levin-Nunn language gives the President the authority and flexibility he needs while retaining for the Congress the right to exercise its obligations under the Constitution.

Mr. President, I have been discussing the "neutrality" of the Levin-Nunn language. I want to close by expressing, briefly, my own lack of neutrality on the underlying issue of SDI. My opposition to SDI is, I hope well known. For a variety of practical and philosophic reasons, I simply do not think that SDI is a viable addition to our national defense strategy. Beyond that, I am not neutral on the interpretation of the ABM Treaty. I have studied Judge Sofaer's analysis of the treaty, I have studied the analysis of Senators LEVIN and NUNN as well as the studies submitted to the Senate by others who support the reinterpretation. I am convinced, on the merits of the case presented, that the traditional interpretation is correct and that is why I have co-sponsored the Biden bill. But again, I urge my colleagues to look beyond the rhetoric and the merits of the underlying issue: the Levin-Nunn language does not reach that issue and does not employ that rhetoric. It does not pass judgment on the merits of one interpretation or the other; it simply affirms the judgment made by our Founding Fathers that the Congress of the United States has the authority and the responsibility to use the power of the purse to guide national defense policy. And that is what this debate should be about.

Mr. KENNEDY. Mr. President, I rise in opposition to the motion by Senator WARNER to strike the Levin-Nunn language from the Department of Defense authorization bill. This language simply imposes an obligation already required by the ABM Treaty. It would establish a 2-year prohibition on the Defense Department from using funds to develop or test any antiballistic missile [ABM] systems that are sea-based, air-based, space-based, or mobile land-based.

In my view, this is the most important provision in the Defense authorization bill. It is a crucial brake on the Reagan administration's ill-advised and obscenely expensive strategic defense initiative. This amendment simply seeks to uphold the law of the land. It would bar the administration from expending funds on ABM systems prohibited by the traditional interpretation of the ABM Treaty without the prior consent of the Congress.

This provision would not be necessary if the administration had followed the interpretation of the ABM Treaty that every previous administration has endorsed and operated under. The Nixon administration, the Ford administration, the Carter administration, and even the Reagan administration through its first 4 years in office recognized that the ABM Treaty prohibited the development and testing of space-based ABM systems.

But, in late 1985, the Reagan administration announced a new interpretation of the 15-year-old treaty that would allow such development and testing. This vital decision was taken without consulting Congress—despite the Senate's constitutional role in the ratification of treaties. It was taken without consulting the allies—despite the treaty's critical importance to their defense. It was taken without consulting the Soviet Union—despite the existence of the standing consultative commission for the resolution of treaty interpretation disputes.

No one here who supports the Levin-Nunn language argues against research to explore promising avenues in antimissile technology that have opened up in recent years. But at the point that star wars research turns into star wars testing and deployment, we must draw the line.

In fact, the ABM Treaty already draws that line. That treaty is as much in the interest of the United States in 1987 as it was in 1972 when the Senate ratified it by the overwhelming margin of 88 to 2.

That treaty eliminated one entire arena of competition between the superpowers. Without that treaty, we would have spent the past 15 years in a full-throttle drive to develop complex, costly and ultimately ineffectual nuclear defenses.

But now the administration wants to take off the brakes. Propelled by the hocus-pocus of the star wars fantasy, this administration is engaged in an unseemly and unprecedented attempt to circumvent the Senate, to reinterpret the ABM Treaty without withdrawing from it, to wriggle out of it without repudiating it, in other words to violate the law of the land.

I urge the administration to stop hiding behind false loopholes and to speak honestly to the American people. If they believe that the ABM Treaty no longer serves the interests of the United States, let them say so. Let them be candid with the American people, and let them abrogate the ABM Treaty in the way that its language provides. and then let the American people judge for themselves which course to follow—by casting their votes at the polls. I am confident that the choice will be clear—nuclear arms control on Earth, not a nuclear arms race in space.

In the life of every Congress, there are moments of historical choice, moments when the votes that are cast change the course of our Nation's history. This is one of those moments, I urge my colleagues to look into the future to a time when we will be called to account by the next generation of Americans and by succeeding generations. Let us cast this vote to reaffirm the rule of law in our own country and to stand behind our solemn commitments—with friends and adversaries alike. This is one vote that truly will be heard around the world.

Mr. BYRD. Mr. President, I have the following unanimous-consent request which has been cleared with both managers and Senators on both sides of the aisle:

It is ordered that the Senate proceed immediately to the consideration of an

amendment by Mr. QUAYLE dealing with the Krasnoyarsk radar, that there be 30 minutes time limitation thereon to be equally divided in accordance with the usual form, that the amendment by Mr. GLENN be temporarily set aside, and that the vote in relation to the pending amendment by Mr. WARNER occur tomorrow morning at 9:30 a.m.; and provided further that no amendments be in order to the amendment to be offered by Mr. QUAYLE.

The PRESIDING OFFICER. Is there objection?

Mr. NUNN. Mr. President, reserving the right to object and I shall not object.

The PRESIDING OFFICER. The Senator from Georgia.

Mr. NUNN. Mr. President, I am sure the way the majority leader worded that unanimous-consent request in reference to the Warner amendment it would permit a motion to table to be made.

Mr. BYRD. It would.

Mr. NUNN. I could be recognized.

Mr. WARNER. Mr. President, that part of the unanimous-consent request remains intact. It is just a question of sequencing it.

The PRESIDING OFFICER. Is there objection?

Mr. WARNER. Mr. President, I see the proponent of the amendment here and I wonder if the majority leader and others will recognize him for a moment.

Mr. BYRD. Mr. President, I ask unanimous consent that it be in order to order the yeas and nays on the Quayle amendment which has not been offered.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. Mr. President, does the Senator want to order the yeas and nays on the amendment?

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The foregoing request is agreed to.

AMENDMENT NO. 683

Mr. QUAYLE. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Indiana [Mr. QUAYLE] proposes an amendment numbered 683.

At the appropriate place insert the following:

SEC. SENSE OF CONGRESS ON THE KRASNOYARSK RADAR.

(a) FINDINGS.—The Congress finds the following:

(1) The 1972 Anti-Ballistic Missile Treaty prohibits each party from deploying ballistic missile early warning radars except at locations along the periphery of its national territory and oriented outward.

(2) The 1972 Anti-Ballistic Missile Treaty prohibits each party from deploying an ABM system to defend its national territory and from providing a base for any such nationwide defense.

(3) Large phased-array radars were recognized during negotiation of the Anti-Ballistic Missile Treaty as the critical long lead-time element of a nationwide defense against ballistic missiles.

(4) In 1983 the United States discovered the construction, in the interior of the Soviet Union near the town of Krasnoyarsk, of a large phased-array radar that has subsequently been judged to be for ballistic missile early warning and tracking.

(5) The Krasnoyarsk radar is more than 700 kilometers from the Soviet-Mongolian border and is not directed outward but instead, faces the northeast Soviet border more than 4,500 kilometers away.

(6) The Krasnoyarsk radar is identical to other Soviet ballistic missile early warning radars and is ideally situated to fill the gap that would otherwise exist in a nationwide Soviet ballistic missile early warning radar network.

(7) The President has certified that the Krasnoyarsk radar is an unequivocal violation of the Anti-Ballistic Missile Treaty.

(b) SENSE OF CONGRESS.—It is the sense of the Congress that the Soviet Union is in violation of its legal obligation under the 1972 Anti-Ballistic Missile Treaty.

Mr. QUAYLE. Mr. President, parliamentary inquiry. I presume the time is equally divided between the two sides; is that correct?

The PRESIDING OFFICER. The Senator is correct.

Mr. QUAYLE. I yield myself 5 minutes.

Mr. President, this sense-of-the-Congress resolution is relevant to the debate and one that is probably more necessary tonight given the recent publicity on whether the Krasnoyarsk phased-array radar is in fact a violation of the ABM Treaty. It is exceedingly relevant to this debate to consider this because tomorrow morning we are going to be voting on an amendment dealing with what kind of interpretation we are going to have on the ABM Treaty.

I, quite frankly, believe the votes on the first round will favor having the narrow interpretation be the interpretation that the Senate wants to side with. That will be a narrow interpretation of a treaty that the Soviet Union clearly violates. So this is a very relevant and important issue that the Senate is going to vote on. I imagine the vote will be unanimous or close to unanimous.

Second, Mr. President, I think it is very important and timely at this opportunity to once again affirm that the Krasnoyarsk phased-array radar presently located is, without any question a violation of the ABM Treaty; that the only way that they are not going to be in violation of this treaty is to take it down.

We had a couple of Congressmen that were over there recently that came back and made a number of public statements and said they were not certain that this was a violation of the treaty. They said, "Well, it was not really operational," and there was all sorts of hedging and hemming and hawing. And the Soviet Union was very adroit in being able to allow them to go out and see this and to get all sorts of publicity on whether it was or was not a violation of the ABM Treaty.

I believe tonight what the Senate will do is go on record once again affirming what the President has certified, that this Krasnoyarsk phased-array radar is a clear violation of the ABM Treaty.

Now it says this: It says that that treaty is being violated not by the United States.

As a matter of fact, this administration still adheres to the narrow interpretation of the treaty. But the Soviets have violated it. That is what, Mr. President, one might logically conclude as a little bit of a double standard.

The PRESIDING OFFICER. The Senator will suspend. The Senate is not in order. The Senator from Indiana has a right to be heard and will be heard.

The Senator may proceed.

Mr. QUAYLE. Mr. President, what we have is somewhat of what one might logically perceive to be a little bit of a double standard, as our administration presently has a narrow interpretation rather than a broad legal interpretation of the ABM Treaty.

I yield myself an additional 2 minutes, Mr. President.

The PRESIDING OFFICER. Without objection, the Senator may proceed.

Mr. QUAYLE. As I said, the United States of America adheres to a narrow interpretation, even though we could go to a broad or legal interpretation and the Soviet Union unilaterally violates this treaty.

Now, at least in my home State in the coffee shops, if you lay out the facts, they would say, "Yeah, that is a double standard. No doubt about it." Not only do we adhere to it, we adhere to it in a very narrow, restricted basis and yet the Soviet Union can unilaterally violate it without any response. They can just callously do this. They have gotten away with it in the past and I presume they will probably get away with it in the future.

But this amendment is an amendment that will confirm once again that we consider this is a violation of the ABM Treaty. It passed the House in May by 418 to 0.

I believe, particularly in light of all the publicity, front-page news stories in the news that raised some question, possibly some question about whether this is a violation of the ABM Treaty, I think the Senate will make it clear just what the real truth is.

There is no question, despite what the Congressmen may have in fact suggested, that it is a violation and I think everybody knows that.

I reserve the balance of my time.

The PRESIDING OFFICER. Who yields time?

Mr. BYRD. Mr. President, does the manager of the bill have the control of the time?

Mr. NUNN. I yield such time as the majority leader may desire.

The PRESIDING OFFICER. The manager of the bill controls the time if he is opposed to the amendment.

Mr. BYRD. Suppose nobody is opposed to it.

Mr. NUNN. What if the manager of the bill is undecided?

Mr. WARNER. Mr. President, I have time, do I not, on this side?

The PRESIDING OFFICER. If the manager of the bill does not oppose the amendment, the time is controlled by the minority leader or his designee.

Mr. NUNN. Mr. President, I do not oppose the amendment. As a matter of fact, I agree with the amendment. I intend to vote for the amendment. So I fall under that set of conditions. I forfeit my time under my control to the majority leader, who I am delighted to yield to.

Mr. BYRD. Mr. President, I believe, under the usual form, the distinguished Senator from Virginia would control the time. By virtue of the fact that the manager supports the amendment and the minority leader is not here, his designee is here and has control of the time.

Mr. WARNER. Mr. President, I yield such time as is desirable to the majority leader.

Mr. BYRD. Mr. President, I thank the distinguished Senator.

Mr. President, I ask unanimous consent that it be in order at this time to order the yeas and nays on the motion to table the pending Warner amendment, which motion will be made tomorrow morning at 9:30 a.m.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. BYRD. Mr. President, I ask for the yeas and nays on the motion.

The PRESIDING OFFICER. is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. BYRD. I thank all Senators.

Mr. WARNER. Mr. President, I wish to speak in behalf of the amendment by my distinguished colleague from Indiana. It is my understanding—and, forgive me, while I was engaged in the colloquy with the majority leader, did the Senator not mention the action the House has taken on a comparable measure? I think it would be very helpful to this body if you would recite the history of this amendment, which I join in supporting, by the House of Representatives.

Mr. QUAYLE. The Senator is correct. I did refer to the vote in the House, which was 418 to 0. I also pointed out the relevancy of this amendment, particularly on the vote that is going to take place tomorrow. Beyond being relevant to the debate on what the interpretation of the ABM Treaty should be and how we have a narrow interpretation and yet they violate it, this amendment speaks to the recent visit of a few Congressmen who went over there and came back and placed in doubt, at least in public statements, whether this was a violation or not. I think it is very appropriate that the Senate go on record and once again confirm what the President has certified that we do find a clear violation of the ABM Treaty.

Mr. WARNER. Mr. President, I yield the floor.

Mr. President, I yield such time as the Senator from California may desire. And with the concurrence of the Senator from Indiana, we should urge any other of our colleagues who may wish to speak on this amendment to come forth. Otherwise, in a few minutes we could presumably yield back such time here that may be remaining.

The PRESIDING OFFICER. The Senator from California.

Mr. WILSON. I thank the Chair and I thank the distinguished manager.

I rise to support the Quayle amendment and to commend the Senator from Indiana for bringing this amendment before us. We need not take much time because he has, with succinctness and eloquence, expressed very clearly the importance of this measure. It very forthrightly simply states that the radar at Krasnoyarsk is a flat violation of the Anti-Ballistic Missile Treaty.

What we have there is a violation both by location and though there seems to be some doubt on the part of recent observers, there seems to be little doubt on the part of others, certainly by intelligence agencies, that it is also a violation in terms of the battle management capability of that radar.

Mr. President, the significance of that violation is very great. I think what this indicates is that we have laboring, as Senator QUAYLE has put it very well, under a real double standard.

I would only hope that we not aggravate that double standard by an imprudent action with respect to the Levin-Nunn amendment. Because we risk very greatly, aggravation of that double standard and the consequences that flow from it are that we will be put at a considerable disadvantage.

But that, I think, is enough for the present time. What we have seen is that those who have been pressing the United States to observe the letter of the law and who have pressed us to accept a narrow interpretation of the treaty have themselves been guilty of a very clear violation of even the unambiguous parts of the treaty.

Mr. President, that speaks volumes. It is very difficult for us to trust someone who urges a course of action and then follows, themselves, an entirely contradictory course. Indeed, I do not think we can engage in trust. The stakes are too high. The past performance is too clear.

This is an unhappy, recent, and very significant addition to the list of instances of Soviet cheating on arms control agreements.

What that means is that we are not exempted from dealing with the other superpower, but it imposes on us an absolute duty to do so with very clear eyes; with no illusions; and with the kind of very hard-headed realism which makes it clear we will be interested only in a very wise agreement that actually safeguards the interests of the United States and that we will not seek agreement purely for the political advantage of having an agreement.

So, to my friend from Indiana, I express my gratitude. I would ask that he add me as a cosponsor to his amendment.

I thank the Chair.

Mr. QUAYLE. I ask unanimous consent that Senator WILSON be added to the cosponsors.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. QUAYLE. Mr. President, I ask unanimous consent that a number of articles regarding the Krasnoyarsk radars be printed in the RECORD.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

[From the Wall Street Journal, May 13, 1987]

THE KRASNOYARSK RESOLUTION

The House voted last week to put strict limits on U.S. strategic-defense spending to avoid any violation of the Anti-Ballistic Missile Treaty with the Soviet Union. But in a separate action that attracted almost no notice, the very same members of Congress unanimously agreed that the Soviets already have broken the ABM accord.

By a vote of 418-0, the House Thursday resolved: "It is the sense of the Congress that the Soviet Union is in violation of its legal obligations under the 1972 Anti-Ballistic Missile Treaty."

The resolution, offered by freshman Rep. Curt Weldon (R., Penn.), focused specifically on the Soviet Union's ABM radar at Krasnoyarsk. It noted that the ABM radar at Krasnoyarsk. It noted that the ABM treaty prohibits early-warning radars except along the periphery of a nation's territory and only if they are oriented outward, and also bans deployment of an ABM system to defend national territory. (Only one ABM site, either covering a missile field or the nation's capital, is permitted under the accord.)

The House then went on to recognize that the Krasnoyarsk radar is "for ballistic mis-

sile early warning and tracking" and is "not directed outward but instead faces the northeast Soviet border more than 4,500 kilometers away." It also said that the radar is "ideally situated to fill the gap that would otherwise exist in a nationwide Soviet ballistic-missile early-warning radar network." The House further accepted President Reagan's certification that Krasnoyarsk is "an unequivocal violation" of the ABM treaty.

House liberals and conservatives, SDI opponents and proponents, arms controllers and arms-control doubters are now jointly on record as finding that the Soviet Union is in violation of its "legal obligation" under the ABM treaty. No one any longer accepts the Kremlin's propaganda that the Krasnoyarsk radar is merely for spacecraft tracking. It is, rather, part of a developing Soviet ABM network.

The Senate now has an obligation to address a similar resolution on the Krasnoyarsk radar. It was, after all, the Senate and not the House that ratified the ABM treaty in the first place. It is, therefore, the Senate's responsibility to determine whether the Soviets are complying with its provisions, instead of arguing about legalistic "narrow" or "broad" interpretations of the ABM negotiating record.

[From the Wall Street Journal, Apr. 13, 1984]

AN ARMS-CONTROL CRAVING

(By Carnes Lord)

Four years ago, there was every reason to believe that the 1980s would be marked by a new realism in the American approach to arms control. The failure of arms control to constrain the Soviet military buildup of the 1970s had become generally apparent; the Soviet invasion of Afghanistan shattered whatever hopes continued to be harbored for detente and stopped in its tracks the second strategic arms limitation agreement (SALT II). The election of Ronald Reagan brought to power an administration that was deeply concerned about the deterioration in the U.S.-Soviet military balance and was disposed to lay at least some of the blame for this on the exaggerated expectations generated by the advocates of arms control and on the political dynamics of the "arms-control process." This skepticism about the virtues of arms control seemed to be in harmony with the mood of the American public and Congress. To the incautious observer, it very much looked as if the Reagan administration had a clear mandate to take the problem of arms control and fix it.

Instead, of course, the past four years have witnessed a surge of anti-nuclear feeling in the country at large. And among the intellectual and policy elite there has been a renewal of enthusiasm for arms control that seems remarkably untempered by the experience of the recent past. As the 1984 presidential election approaches, the Democratic hopefuls have vied with one another in support for new arms-control initiatives of varying degrees of irresponsibility. More surprisingly, the president has come under steady pressure from Republicans in Congress and from elements of his own administration to demonstrate ever new flexibility, including unilateral concessions, in arms-control talks with the Soviet Union. This is in spite of the demonstrative Soviet walkouts from negotiations on nuclear weapons, and in spite of the mounting evidence of Soviet violations of existing agreements.

VERIFICATION AND COMPLIANCE

Nothing is more revealing of the dubious impulses animating the unilateralist arms-control revival than the failure of its champions to come to grips with the problem of verification and compliance. For many years, arms-control enthusiasts have paid lip service to the need for effective verification of agreements, but have failed to devote serious attention to the operational and political difficulties (as opposed to the technical limitations) that face any verification effort. On the contrary, the efficacy of existing verification methods and approaches has been consistently overstated, while compliance problems have been played down.

Above all, the evidence that has accumulated over the past decade or so of Soviet violations, near violations, exploitation of loopholes and negotiating deception has been treated in cavalier and exculpatory fashion, when it has not been simply ignored. As if the purpose and context of agreements were wholly irrelevant to the issue, the U.S. government has been asked to concern itself only with violations in a strictly legal sense. Moreover, it has been expected to employ standards of legality which, though proper in a criminal prosecution under domestic law, are wholly inappropriate to a situation where (Russian) witnesses cannot be forced to appear, evidence is incomplete for deliberately withheld), sources cannot always be revealed because of intelligence sensitivities, and the law itself lacks an authoritative neutral interpreter. Ambiguities in factual evidence or in the language of agreements have been taken by many as sufficient reason for disregarding possible violations. Not only have Soviet explanations been credited that were palpably false: arms control advocates have actually constructed briefs for hypothetical Soviet positions of greater ingenuity than anything the Soviets themselves were able to come up with. And even where a legal violation is recognized as certain or highly probable, its significance tends to be dismissed. In all cases (but most notably in the area of Soviet anti-ballistic missile activity), evidence for violations has been dealt with in piecemeal and isolated fashion, with little attempt to see it in the broad context of Soviet compliance behavior generally or of Soviet strategic intentions.

This complex of attitudes is currently facing its most severe test. A report submitted by President Reagan to Congress on Jan. 23 lays out the results of an intensive study of the evidence for Soviet noncompliance with arms-control agreements in seven areas. In one of these areas—chemical and biological warfare—the U.S. has for some time formally accused the Soviets of violating the relevant agreements. Despite strenuous and continuing efforts to discredit these charges, they have been confirmed by refugees and by independent analyses carried out in a number of European countries. Of the other issues, the most significant concerns the Anti-Ballistic Missile Treaty of 1972. The construction of a phased-array ballistic missile early warning (BMEW) radar by the Soviets near Krasnoyarsk in southern Siberia—in contravention of the treaty requirement that such radars can only be deployed at locations on the national periphery and oriented outward—opens an entirely new chapter in the history of Soviet compliance behavior. If Soviet activities in the chemical and biological area may be said to be the first unambiguous treaty violation whose military significance bears importantly and directly on the U.S.-Soviet strategic nuclear balance.

The intent of the relevant provision of the ABM Treaty was to prevent either party from creating the base for a territorial ABM system by building a network of BMEW radars that could be used not only to warn of a missile attack but also to aid in the tracking and interception of incoming nuclear warheads. While there is room for disagreement as to the extent to which this and similar radars already in operation on the Soviet periphery were specifically designed to perform an ABM "battle management" function, they have an inherent capability to perform that function. And the characteristics of the new radar as well as its location near a number of ICBM deployment areas suggest that its primary purpose is indeed ballistic missile defense.

A recent report by the Federation of American Scientists contained a claim that the Krasnoyarsk radar is primarily for space tracking rather than early warning or missile defense and is thus allowed under the treaty. That is simply false. While the president's report stops short of simply calling the radar a violation (it uses the phrase "almost certainly"—for reasons that have not been explained).

In assessing the significance of the Krasnoyarsk radar, it is necessary to consider both how it fits into the overall picture of Soviet ABM-related activities and what it reveals about Soviet intentions. What is worrisome is not the Soviet BMEW radar net by itself, but its potential when linked with other air defense and ABM radars and interceptor missiles. For years, the Soviets have taken advantage of ambiguities in the ABM Treaty to develop and test air-defense systems against ballistic missile targets, and they have developed small ABM radars that probably could be rapidly deployed throughout Soviet territory. Should the Soviets choose to free themselves from the treaty's constraints, they would now have in place the long lead-time elements that would permit rapid expansion to an effective nationwide ABM system. As for Soviet intentions, the very fact that they seem to have been prepared to face the consequences of a deliberate and massive violation of the ABM Treaty must raise ominous questions about their next moves.

BANKRUPT APPROACHES

What is to be done? While no one will deny that it is difficult to devise effective strategies for response to violations, it is also clear that current approaches have proved to be bankrupt and are no longer an effective deterrent to further violations. To continue to pretend that all compliance issues can be resolved simply through patient discussion with the Soviets in confidential channels such as the Standing Consultative Commission is perfectly idle. This view assumes that all compliance issues rest on misunderstanding and that both parties are dealing in good faith, whereas nothing could be further from the truth.

What are needed are real penalties—withdrawal from agreements or suspension of particular provisions, and political and military countermeasures. The U.S. has never exacted such penalties for any Soviet action in any arms-control area. Unless and until we do, the Soviets will grow more brazen yet in their disregard for treaty obligations, and the U.S. will approach ever more closely that condition—familiar from the annals of Western disarmament efforts in the 1930s—

where generous forbearance and blind hope give way to impotence and appeasement.

[From the New York Times, Jan. 28, 1987]

RADAR TRAP, AND OPPORTUNITY

The United States is building missile warning radars at Thule in Greenland, a Danish territory, and Fylingdales in Britain. Soviet officials and some Americans assert these violate the Antiballistic Missile Treaty. The issue is being debated this week in Denmark, too. American critics suggest halting construction if the Russians will stop building an almost certainly illegal missile-sensing radar at Krasnoyarsk in Siberia. The proposal is both a trap and an opportunity.

A straight trade is the wrong idea. The American radars do not appear to violate the treaty. But the recent Soviet acknowledgment of a problem at Krasnoyarsk needs to be explored, not spurned.

Built inland, the Krasnoyarsk radar affronts the ABM Treaty, which permits such radars only on the edge of a nation's territory. The device is a large phased array radar, in which the beam is moved electronically instead of by a steerable dish. These powerful instruments can serve several uses, like space tracking, early warning of missile attack and direction of interceptors against missiles aimed at targets within their beam.

That's why the framers of the ABM Treaty specified that all early warning radars should be on a country's borders facing outward, physically precluding them from serving in an antiballistic missile role. If the Krasnoyarsk radar can space-track, the legal function for which the Russians say it is designed, it can also do early warning and maybe missile defense. By any reasonable reading of the treaty, the radar is in the wrong place

Only after the United States complained did the Soviet Union object to the new Thule and Fylingdales radars. It suggested work on all three radars should cease. But the seeming symmetry of this clever suggestion vanishes on inspection. The ABM Treaty permitted the early Warning radars then existing at Thule and Fylingdales. As a general rule, it permits modernization. Following a decision of President Carter's, the Administration is replacing the old steerable dish radars at the two sites with large phased array radars. This will, true, vastly increase the radars' coverage and capacity to define targets. Still, the raders are at sites covered by the treaty with the same early warning function as before.

Critics now argue that the new radars are impermissible Replacing a steerable dish with a phased array radar they say, is like building a nuclear power plant in place of a wood stove and calling it modernization. More specifically, a section of the ABM Treaty, called Agreed Statement F, prohibits phased array radars as large as those planned for Thule and Fylingdales. But modernization is generally permitted, regardless of technology, and one of the exceptions to Agreed Statement F accepts early warning radars at both sites.

Given the Aministration's folly in repudiating the second stratetic arms treaty, its critics are right to fear it may seize on the Krasnoyarsk radar to undermine the ABM Treaty, too. But contriving to equate the Thule and Fylingdales upgrades with Krasnoyarsk is not the answer.

The Administration's lofty dismissal of the Soviet offer is not the right response either. With creative diplomacy, Krasnoyarsk could be the lever for clearing up other doubtful Soviet activities as well as questions about Thule and Fylingdales. Fixing these issues in existing arms treaties would be the best preparation for any new agreement.

[From the Washington Post, Feb. 5, 1985]

THE KRASNOYARSK RADAR

A year's further discussion of whether the Soviet Union is respecting its arms control obligations has produced more of a consensus than most people had thought possible. The release of President Reagan's latest congressionally mandated report on "Soviet noncompliance with arms control agreements" makes this clear.

The main thing that has happened since the last report is that public attention has focused on one alleged violation—the Krasnoyarsk radar. Most of those who previously hesitated to call it a violation of the 1972 Antiballistic Missile Treaty (ABM) have stopped hesitating. It has become very hard to deny that the Soviets set out shortly after the treaty was signed on a course specifically blocked by the treaty, that they stone-walled through years of American efforts to induce them to admit it or correct it and persist on that course to this day. Fewer people remain to say that it really doesn't matter all that much and that, in any event, it's wrong to talk about it in public.

Some Americans feared—others hoped—that official efforts to nail the Kremlin on this violation would unravel the whole arms control process. This has not happened: President Reagan and the Russians are headed back to full-scale negotiations at Geneva. But there have been other major consequences. The American standards for verification of new agreements have been toughened. And major impetus has been given to the idea of an American defense against ballistic missiles—this is the idea embodied in the president's Strategic Defense Initiative. Unlike the Soviet radar at Krasnoyarsk, this program, in its current, research phase, is entirely consistent with the ABM Treaty.

A few Soviets have hinted that, if Moscow felt it could avoid public embarrassment, it might find a way to halt construction on the radar or otherwise signal that it understood American sensitivities. But of course Moscow had years to do just that, and so far has chosen not to, even though it was being discreetly pressed on the matter by Americans of very different political persuasions.

Is there not someone in the Kremlin with the wit to recognize the immense Soviet interest in quietly unfolding a few tarpaulins at the Siberian construction site? What a pity that its political radar is so inferior to that huge electronic radar being built at Krasnoyarsk.

[From the Wall Street Journal, Apr. 23, 1985]

VIOLATIONS AND DOUBLE STANDARDS

Release of a Pentagon report on the Reagan strategic-defense initiative has uncovered a theological rhubarb over arms control. The narrow issue is whether testing for the U.S. "Star Wars" program will violate the 1972 Anti-Ballistic Missile Treaty, which by now nearly everyone agrees has already been broken by the Soviet Union. The argument illustrates the double standards that dominate the arms-control discussion. And it raises the question of how you get out of a treaty that threatens the strategic balance and national security.

With Star Wars, Mr. Reagan wants to actually defend against nuclear missiles, which is what the ABM treaty seeks to prevent. The treaty bans deployment of certain ABM components, does not seek to prevent research, but does have some provisions limiting testing. So far, Mr. Reagan has asked for research and testing but not deployment. The issue is what tests are allowed by a treaty that bans tests of ABM "components" without exactly explaining what is a "component."

The Pentagon report describes the tests and avers that while testing involves "gray areas," it plans to "make certain" that "the U.S. is in compliance." A detailed section explains the difference between a "component" and a "sub-component," and how U.S. testing involves the latter.

Arms controllers warm that breaching the "gray areas" may wreck the treaty. Yet almost all factions now concede the Soviets have already violated it, apparently without wrecking it as far as U.S. tests are involved. For years some of us have been complaining about Soviet testing and deployment of surface-to-air missiles, some reloadable; mobile radars tested in an "ABM mode"; and all the other components needed for a breakout into a nationwide defense. Arms controllers dismissed these isolated developments as strategically insignificant, only "gray-area" violations.

With the ABM treaty—which tries to limit technology, an ambigious and changing thing—nearly everything is . . . So under the double standard that arms controllers seek to apply, Soviet activity right up to the point of a nationwide ABM capability is "gray" and therefore allowable. But at the same time U.S. research is also gray—but therefore not allowable. That there can even be a heated debate on whether this-or-that test is a violation point illustrates the inherent, object flaw of the ABM treaty.

The Pentagon's report rightly question this "double standard," but it also embodies a double standard or two of its own. For example, if the Soviet research and testing really is aimed at a large capability to break out of the treaty quickly, why should we worry about whether our research and testing comply? More fundamentally, why are we spending all this money on research if we are going to abide by a treaty that outlaws deployment of the weapon if the research is successful?

There is a strong case to be made for a ballistic-missile defense program, but it cannot be made hiding behind contradictory rationales. A serious case would probably start from the premise that, even if not violated, the ABM treaty is a bad thing, for us and the Soviets. It seeks to limit defense; real arms control ought to allow for unlimited defense and try to limit offensive forces.

Likewise, the Reagan administration has been bold enough to point the finger at the Soviets, at Geneva and elsewhere for violating the treaty. But if the administration wants Americans to take such charges seriously, it will have to act as if it believed this were true. The Pentagon report at least notes that the treaty does have a withdrawal clause, and that when it was signed, negotiator Gerard Smith said that the U.S. would consider its "supreme interests" jeopardized if further limits were not placed on offensive arms. And the Pentagon further remarks: "We do reserve the right to respond to those violations in appropriate ways, some of which may eventually bear on the treaty constraints as they apply to the United States."

In this oblique and bureaucratic way, the Pentagon report does start to open the right issue: If a treaty is built on wrong principles in the first place, if the Soviets are already violating it, at what point does the U.S. stop twisting its own programs to comply, and simply and honestly say the treaty is void?

Mr. QUAYLE. Mr. President, I do not believe I have any requests for other speakers. I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. NUNN. Will the Senator yield just a couple of minutes?

Mr. QUAYLE. I will be glad to yield however much time the Senator needs.

Mr. NUNN. Mr. President, I support the Quayle amendment. I think the Krasnoyarsk radar is a violation. I think it violates the location and orientation of ballistic missile early-warning systems that is clearly set forth in the treaty, so I urge our colleagues to vote for this amendment.

I would also just add that the connection between this and the Levin-Nunn amendment, it seems to me, is not appropriate, the reason being the President of the United States has not asked for the proportionate response nor has he proposed a proportionate response though he has clearly said this is a violation.

I would think the normal course of order would be for the President of the United States to not only ask for the proportionate response but to explain what proportionate response he would anticipate and what proportionate response to this violation he envisions.

I must also add that I think the administration has every obligation to go to the standing consultative commission and to empower our representatives there to try to pursue a solution to this violation, in the sense of having the violation eliminated.

I believe that should be done. I am not sure how much of that has been done but we do have a standing consultative commission and they are charged with this responsibility and I would hope that there would be the kind of authority needed there to deal with that and the kind of direction to insist the Soviets do clear up that violation. We have made it clear we do feel it is a violation. The House has. The Senate has, I hope, after we vote on this; so I agree with the amendment of the Senator.

The PRESIDING OFFICER. Who yields time?

If neither side yields time, the time will be divided equally.

Mr. BENTSEN addressed the Chair.

The PRESIDING OFFICER. The Senator from Texas.

Mr. BENTSEN. Mr. President, would the manager for the bill yield me 3 minutes?

Mr. NUNN. Mr. President, this manager did not have time under the rules, so if the Senator from Indiana will yield 3 minutes——

Mr. QUAYLE. I will be glad to yield 3 minutes to the distinguished chairman of the Finance Committee.

Mr. BENTSEN. I will be prepared to offer an amendment in a few minutes. I understand from both sides there is no objection to it. I understand you are checking on that point at this moment.

What we are seeking is communities along the gulf coast that are preparing—that is they are trying to decide what they have to do in the way of sewer lines, all the public facilities that have to be prepared. This would provide up to $300,000 may be expended for that purpose. It would assist those along the gulf coast.

I frankly do not know an objection to it and this is a standard procedure that takes place in this kind of public installation for Federal Government planning.

The PRESIDING OFFICER. The Senator from Indiana.

Mr. QUAYLE. Mr. President, I know of no objection to it on this side, but I might just say we are checking, particularly checking with the junior Senator from Texas.

Mr. BENTSEN. The junior Senator will be a cosponsor of it.

Mr. QUAYLE. Well, that clarifies that, if he is a cosponsor of it. I do not see there will be any problem at all. If we can run just a couple of checks and we will set this aside and be able to take it in due course.

The PRESIDING OFFICER. The Senator from Georgia.

Mr. NUNN. Mr. President, our staff has been over this with the Senator from Texas. He has been very diligent in pursuing this amendment. As I recall, this amendment was accepted by the Senate last year.

Mr. BENTSEN. I believe that is correct. That is correct, a very similar amendment was accepted.

Mr. NUNN. I know the Senator from Texas is concerned about the homeporting and planning for the homeporting. It is a good amendment. And we will be delighted to recommend that our colleagues accept it at the appropriate time when the amendment is pending before the Senate.

The PRESIDING OFFICER. Who yields time? If neither side yields time, the time will be divided equally.

PROGRAM

Mr. BYRD. Mr. President, I ask unanimous consent that I may proceed with the program for time and that the time be charged equally against both sides.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDERS FOR THURSDAY

ADJOURNMENT UNTIL 8:30 A.M.

Mr. BYRD. Mr. President, the order has been entered that the Senate will come in at 8:30 tomorrow. I ask unanimous consent that, when the Senate completes its business today, it stand in adjournment until the hour of 8:30 tomorrow morning.

The PRESIDING OFFICER. Without objection, it is so ordered.

MORNING BUSINESS

Mr BYRD. Mr. President, I ask unanimous consent that tomorrow after the two leaders have been recognized under the standing order, that there be a period for the transaction of routine morning business not to extend beyond the hour of 9 o'clock a.m. and that Senators may speak during that period for not to exceed 3 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

UNFINISHED BUSINESS

Mr. BYRD. Mr. President, the unfinished business automatically will come back before the Senate at what time tomorrow?

The PRESIDING OFFICER. The unfinished business will reoccur after the morning business has been concluded.

Mr. BYRD. So we will come in at 8:30, have the orders for the leaders and then we have morning business from that point until the hour of 9 o'clock. The unfinished business would automatically come back before the Senate at 9 o'clock.

Mr. President, I will not ask for a live quorum tomorrow morning at 9 o'clock in view of the fact that there will be a rollcall vote at 9:30 tomorrow morning on the motion to table the Warner amendment.

Mr. President, I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. BYRD. Mr. President, this may or may not be the last vote tonight. The managers have indications that other Senators wish to call up amendments tonight. If the managers wish to entertain those amendments, there may or may not be additional rollcall votes this evening.

Mr. WARNER. Mr. President, I had to step out to the cloakroom, but it was my understanding of the parliamentary situation that at the conclusion of the vote on the pending Quayle amendment that the Senate will go back to the amendment of the Senator from Virginia and that is the pending business. We have entered into a unanimous-consent agreement that is quite explicit that that amendment would be voted on at 9:30 tomorrow morning, at which time the Senator from Georgia would make a motion to table. Therefore, I am perplexed at how we can have other votes tonight,

given that unanimous consent agreement.

Mr. BYRD. Mr. President, if the managers are willing to entertain other amendments tonight by Senators who wish to call them up, if they can get unanimous consent to temporarily lay aside the Warner amendment, they could proceed.

Mr. WARNER. Mr. President, I believe I have the floor.

The PRESIDING OFFICER. The Senator is correct.

Mr. BENTSEN. If the Senator will yield, I have such an amendment and I understand it has been cleared by both sides. It should not take over a couple of minutes. I would appreciate obtaining unanimous consent to temporarily lay aside the amendment under consideration and consider my amendment.

Mr. WARNER. Mr. President, I do wish to accommodate the Senator from Texas. The Senator from Indiana, of course, was acting on my behalf, and I concur in whatever decision he made. It seems to me fair not only to the Senator from Texas but to other Senators that we should have some idea of the quantum that the majority leader and the chairman want to achieve tonight.

Mr. NUNN. Mr. President, will the Senator yield?

Mr. WARNER. I will propound that to the manager of the bill as a formal question.

Mr. NUNN. Mr. President, I would like to take as many amendments as we possibly can tonight. I think the nature of things is such that they would have to be noncontroversial amendments. I would hope that the Senator from Virginia will agree that the amendments which have been cleared on both sides, and I understand the Senator from South Carolina has such an amendment and the Senator from Texas has such an amendment that could be taken up, those which have been cleared on both sides, that we could take them up and move on. We have over 80 amendments to this bill. Even noncontroversial amendments take 15 to 20 minutes.

If we could have an understanding under these circumstances, since we do not have another amendment at the moment that would demand a rollcall vote that we have been able to get over here, that we have tried, I would suggest that we try to take several noncontroversial amendments, if they are cleared on both sides, take them tonight, and then move on tomorrow morning to the other business of the bill.

Mr. WARNER. Might I suggest to the manager of the bill and others that we have discussed this, of course, with the hope of enabling us to get some sort of consensus. I have not been able to acquaint my colleagues with the other items. We have settled the issue that the Senator from Indiana spoke on, and we can dispose of that one, but on any other further amendments, I would like to have the opportunity to talk with the managers.

Mr. BENTSEN. Mr. President, if I understand the colloquy, I am now in a position to ask unanimous consent that the amendment under consideration be temporarily set aside and ask that an amendment that has been cleared on both sides of the aisle be given immediate consideration.

AMENDMENT NO. 684

(Purpose: To set aside certain sums for community planning assistance for certain Gulf Coast communities in connection with the Naval Strategic Dispersal Program)

Mr. BENTSEN. I send the amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER (Ms. MIKULSKI). Is there objection? Without objection, it is so ordered.

The clerk will state the amendment.

The bill clerk read as follows:

The Senator from Texas [Mr. BENTSEN], for himself, Mr. GRAMM, and Mr. COCHRAN, proposes an amendment numbered 194.

Mr. BENTSEN. Madam President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 198, between lines 4 and 5, insert the following:

PART C—MISCELLANEOUS PROVISIONS

SEC. 2831. COMMUNITY PLANNING ASSISTANCE

The Secretary of Defense may expend not more than $300,000 from funds appropriated to the Department of Defense for fiscal year 1988 pursuant to an authorization contained in this division and not more than $300,000 from funds appropriated to the Department of Defense for fiscal year 1989 pursuant to an authorization contained in this division to provide planning assistance to communities located near Gulf Coast homeports proposed under the Naval Strategic Dispersal Program, if the Secretary determines that the financial resources available to the communities (by grant or otherwise) are inadequate.

HOMEPORT COMMUNITY PLANNING ASSISTANCE

Mr. BENTSEN. Madam President, I am pleased that the Armed Services Committee has endorsed continuation of the Navy's strategic dispersal program. Despite past controversy, the Congress has supported the homeport program in the firm conviction that the military advantages greatly outweighed the added costs.

Along the gulf coast, communities are working steadily and eagerly to prepare for the arrival of the Navy ships and personnel in the next few years. In the Corpus Christi area, for example, the South Texas Homeport Steering Council has been established and has hired staff and named task groups to study the impact on housing, roads, schools, and so forth. Federal planning funds have already helped in this process, and more is needed.

In Pascagoula, MS, a coordinator for homeport activities has been named, and the community is hoping to receive funds to help defray the costs for the coordinator and consultants which will be hired to perform the necessary impact studies.

These are just two of the cities which need and have qualified for the community planning assistance regularly approved in the past for major new military installations. I have been advised, however, that the defense authorization bill reported by the Senate Armed Services Committee does not contain formal authorization for funds for community planning assistance for gulf coast home port sites. I am also advised that such legislation is necessary to ensure that Federal support to ongoing local planning efforts can continue on schedule.

To correct this oversight, I am proposing an amendment, using language suggested by the Office of Economic Adjustment of the Department of Defense, to provide $300,000 for each of the next 2 fiscal years for such community planning assistance. Such legislation, similar to that enacted by the Senate last year, would establish clear legal authority for this assistance. The Defense Department anticipates that the Ingleside/Corpus Christi area would receive approximately $200,000 of that amount for each of the next 2 years; that Pascagoula, MS would get about $50,000 each year; and that the remaining $100,000 would be available for other home port sites that might submit justifiable requests.

My amendment would guarantee that local communities will have the benefit of Federal planning assistance so that the roads and schools and housing are anticipated and ready when the ships arrive. I hope that the committee agrees on the need for these funds.

I urge adoption of the amendment.

The PRESIDING OFFICER. Is there further debate on the amendment? If not, the question is on agreeing to the amendment.

The amendment (No. 684) was agreed to.

AMENDMENT NO. 683

Mr. QUAYLE. Madam President, I ask unanimous consent that Senator HELMS be added as a cosponsor to my amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Chair wishes to advise the Senator from Indiana that he has 1 minute remaining. The Senator from Virginia has 3 minutes remaining.

Mr. QUAYLE. Madam President, I yield back the remainder of my time.

Mr. WARNER. Madam President, we yield back the remainder of our time.

The PRESIDING OFFICER. All time having been yielded back, the question is on agreeing to the amendment of the Senator from Indiana. The yeas and nays have been ordered and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Oklahoma [Mr. BOREN], the Senator from Tennessee [Mr. GORE], the Senator from Illinois [Mr. SIMON], and the Senator from Colorado [Mr. WIRTH] are necessarily absent.

I also announce that the Senator from New Jersey [Mr. LAUTENBERG] is absent because of death in the family.

Mr. SIMPSON. I announce that the Senator from Maine [Mr. COHEN], the Senator from New York [Mr. D'AMATO], the Senator from Kansas [Mr. DOLE], the Senator from South Dakota [Mr. PRESSLER], and the Senator from New Hampshire [Mr. RUDMAN] are necessarily absent.

I also announce that the Senator from Vermont [Mr. STAFFORD] is absent on official business.

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 89, nays 0, as follows:

[Rollcall Vote No. 247 Leg.]

YEAS—89

Adams	Glenn	Mitchell
Armstrong	Graham	Moynihan
Baucus	Gramm	Murkowski
Bentsen	Grassley	Nickles
Biden	Harkin	Nunn
Bingaman	Hatch	Packwood
Bond	Hatfield	Pell
Boschwitz	Hecht	Proxmire
Bradley	Heflin	Pryor
Breaux	Heinz	Quayle
Bumpers	Helms	Reid
Burdick	Hollings	Riegle
Byrd	Humphrey	Rockefeller
Chafee	Inouye	Roth
Chiles	Johnston	Sanford
Cochran	Karnes	Sarbanes
Conrad	Kassebaum	Sasser
Cranston	Kasten	Shelby
Danforth	Kennedy	Simpson
Daschle	Kerry	Specter
DeConcini	Leahy	Stennis
Dixon	Levin	Stevens
Dodd	Lugar	Symms
Domenici	Matsunaga	Thurmond
Durenberger	McCain	Trible
Evans	McClure	Wallop
Exon	McConnell	Warner
Ford	Melcher	Weicker
Fowler	Metzenbaum	Wilson
Garn	Mikulski	

NOT VOTING—11

Boren	Gore	Simon
Cohen	Lautenberg	Stafford
D'Amato	Pressler	Wirth
Dole	Rudman	

So the amendment (No. 683) was agreed to.

Mr. NUNN. Madam President, I had hoped to get up other amendments this evening. I still hope we can get up some amendments which will be of a noncontroversial nature. There will not be any more rollcall votes.

We are open for further debate on the ABM amendment, and I have notified Senators that if there is further debate, we will continue that debate. We want a thorough debate. We do not want anyone to feel they are cut off.

We had debate all day yesterday. Perhaps 3 or 4 hours of it were on the ABM amendment. We also had 6 or 7 hours of debate today on that amendment, and we are prepared to have more.

So I do not want anyone to feel that there has been a premature motion to table, although we have a unanimous consent agreement tonight that will be in effect tomorrow morning. We will vote at 9:30 in the morning.

I do serve notice that if there are any other Senators who would like to debate that this evening, as floor manager, I will accommodate them.

Mr. WARNER. Madam President, I join the distinguished chairman in observing that we had a very good debate on the pending issue, on the ABM amendment, as he has characterized it, against which I have lodged a motion to strike.

We do urge our colleagues to come over. The leadership has provided this opportunity for any additional debate, in view of the fact that we have now established a fixed time tomorrow morning for the vote.

Mr. BYRD. Madam President, may I add this postscript: Tomorrow morning, at 9 o'clock, the Senate will turn to the consideration of the pending question, which is the amendment by Mr. WARNER, and there is a 30-minute period between 9 and 9:30 before the tabling motion occurs.

There will be 30 minutes at that juncture if Senators wish to have further comment on the Warner amendment. Otherwise, if they do not, we can go ahead at 9. We have the time set for the motion to table. That will be at 9:30. We could come in at 9 and have the two leaders fulfill their standing orders and then have the morning business at 9:30. But we could leave it as it is, which leaves a window of 30 minutes if Senators wish to comment on the pending question.

Mr. DOMENICI. Madam President, I ask unanimous consent that I be permitted to proceed for 2 minutes as in morning business.

MORNING BUSINESS

Mr. BYRD. Madam President, I ask unanimous consent that there be a period for morning business and that Senators be permitted to speak therein, and that the period not extend beyond 20 minutes.

Mr. WARNER. Madam President, it is not my intention to object, but I am wondering, so that we could advise other Senators, whether we could agree now to go into morning business and not proceed further on the pending matter. In that way, many staff members and others can begin to prepare for tomorrow.

Mr. BYRD. That will be fine.

Does the Senator want 5 minutes?

Mr. DOMENICI. That is plenty for this Senator. I do not need any more than 5 minutes.

Mr. BYRD. Madam President, within that time, if there are other Senators who have anything further to say on the pending question, they have been notified and they should be here promptly.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from New Mexico may proceed.

FIRST ANNUAL LIEBER PRIZE FOR OUTSTANDING ACHIEVEMENT IN MENTAL HEALTH RESEARCH

Mr. DOMENICI. Madam President, today is a special day in the history of mental health research. Today Dr. Benjamin Stephenson Bunney, professor of Psychiatry and Pharmacology and vice chairman of the Department of Psychiatry at Yale University School of Medicine, became the first recipient of the annual Lieber Prize of $50,000. The Lieber Prize was endowed by Stephen and Constance Lieber of New York State and is awarded for outstanding achievement in research on mental illness. This prize is particularly significant because it marks a new initiative to raise private funds for expanding our Nation's research into serious mental illness.

The exciting new technologies and discoveries for mental health research, largely funded by the Federal Government, have sparked a private sector interest in helping to find more answers to the problems of understanding and treating major mental illness not only in our country but for anyone anywhere.

The organization formed last year to raise private resources to advance the study of mental illness is NARSAD, the National Alliance for Research on Schizophrenia and Depression. Four energetic citizens' groups helped to form NARSAD. They are the National Alliance for the Mentally Ill, National Mental Health Association, National Depressive and Manic Depressive Association, and the Schizophrenia Research Foundation.

NARSAD is the sponsor of the first annual Lieber Prize. In addition, NARSAD is giving 10 research grants of $25,000 each to research scientists. These are scientists who have a record of accomplishment and a promise of future achievement. Our hopes are with them. Our search is for new

knowledge in the understanding and treatment of schizophrenia and depression.

My wife Nancy and I have each been honored to be named honorary chairmen of this private sector fund raising initiative, The Mental Illness Research Campaign, to raise $10 million over the next 3 years. The other honorary chairman is Barry Bingham, Sr., former publisher of the Louisville Courier Journal.

NARSAD sponsors include Katherine Graham, Rosalynn Carter, Carl Sagan, Senator DANIEL PATRICK MOYNIHAN, Arnold Palmer, Peter Ueberroth, Sally Struthers, Julian Bond, Ted Turner, Joanne Woodward, the Rev. Theodore Hesburgh, and Rabbi Alexander Schindler.

In a fairly short time, we have raised $1,000,000.

The honorary chairmen of the NARSAD Scientific Council are equally eminent: Nobel Laureate Dr. Julius Axelrod and Dr. Eli Robins. Dr. Herbert Pardes of Columbia University is president of the distinguished NARSAD Scientific Council. The Scientific Council selects the Lieber Prize winner and the grant award winners.

Research in mental illness has been starved. As a nation, we spend about $7 in research for each American with schizophrenia or depression. The comparable amount for each cancer patient is $203, and $88 is spent in research for each heart patient. Currently, less than 15 percent of mental illness research is privately funded. By comparison, 42 percent of cancer research funds come from the private sector.

The NARSAD Mental Illness Research Campaign is designed to channel increased private funding into investigations of the origins, causes, and possible cures of mental illness.

Schizophrenia and depression afflict more than 14.5 million Americans, at best disabling them for a period, at worst shattering their lives and those of their families. About 40 percent of the homeless on our city streets have serious mental illnesses. In our Nation's hospitals, mentally ill patients occupy more beds than those with any other illness, more than the victims of heart disease, cancer, and respiratory illness combined.

The estimated cost to the United States of America for providing medical and social services to these unfortunate victims exceeds $20 billion annually.

The prestigious Lieber Prize's first winner, Dr. Benjamin S. Bunney, of Yale University, has dedicated his life to understanding the origins and, possibly, the cure for schizophrenia. Dr. Bunney's research career has focused on the brain's dopamine system, which has been implicated as a part of the major neuronal dysfunction in schizophrenia.

Dr. Bunney, 48, has conducted all of his research at Yale University. He has been on the faculty of the Yale School of Medicine since 1971. His work has included pioneering research on the effects of antipsychotic drugs in the brain and the effect of these drugs on the transmissions in the dopamine system.

To quote Dr. Bunney: "This is a particularly exciting time to be working in the area of brain function. There has been an explosive growth in both the fields of neuroscience and population and molecular genetics. Because of this, the tools are now becoming available which allow us to answer questions that we did not have the means to answer before."

After honoring Dr. Bunney for his excellent work, we at NARSAD awarded 10 grants of $25,000 each for the continuation of fine research into schizophrenia and depression. The 10 grants were awarded to:

First. Davangere Devanand, M.D., Columbia University.

Second. David Miklowitz, Ph.D., University of California at Los Angeles.

Third. J. Frank Nash, Ph.D., Case Western Reserve University.

Fourth. Sergio Starkstein, M.D., Johns Hopkins University.

Fifth. George Volger, Ph.D., Washington University.

Sixth. Royce Waltrip II, M.D., University of Maryland.

Seventh. Steven Faux, Ph.D., Harvard University.

Eighth. Ezra Susser, M.D., M.P.H., New York State Psychiatric Institute, Columbia.

Ninth. Scott Cain, M.D., Duke University.

Tenth. Sari Gilman, M.D., University of Pittsburgh.

Mrs. Gwill Newman, president of the NARSAD Board of Trustees, expressed our pride in the early successes of this fine organization when she said, "We are very proud of the young researchers from outstanding universities who have won these first NARSAD awards. We are certain their accomplishments and their investigative focus, will encourage other scientists to move seriously into the field of mental illness research."

Because NARSAD is so new and because we will be hearing more from this spirited organization in the coming years, I would like to inform my colleagues about NARSAD's goals:

First. Raising funds for creative research into the causes, prevention, and cure of severe mental illnesses;

Second. Discovering, encouraging and supporting young investigators so that research into mental disorders becomes competitive with other fields;

Third. Supporting university-based research centers where vital interaction of a variety of disciplines can be brought to bear on the profoundly complex problems of brain disease; and

Fourth. Making the most advanced technology available to mental illness researchers so that they can gain a clear image of the brain's activity in their efforts to diagnose and treat the body's most complex organ.

Mr. President, I applaud NARSAD and its committed and talented leadership. I applaud Dr. Benjamin S. Bunney for his commitment to a most worthy cause. His work will be an inspiration to young researchers who are considering committing their lives and talents to this worthy cause. They are needed, Mr. President, and they can make a difference in the daily lives of many suffering human beings.

I also applaud our 10 outstanding research grant recipients and wish them all the best. We can all be proud of their efforts to push back the frontiers of knowledge in a very complicated but exciting field.

Finally, Mr. President, I would like to thank the Members of the Senate and the House of Representatives for seeing the value of research into serious mental illness and for committing important but scarce resources to this purpose. This commitment has come at a time when additions to domestic spending are more difficult to make.

It is indeed heartening to see this fine private effort come into being. NARSAD will help carry the financial burden for research. We, as a Nation, are looking for answers to one of the most puzzling problems to ever face humanity—serious mental illness. With continued congressional support and fast growing interest outside of Government, Americans can expect accelerated gains in this noble effort.

Until we understand more about our own brain and nervous systems, we will remain unable to bring sufficient help to many who suffer from schizophrenia and serious depression. We are now able to relieve the symptoms and stabilize many patients, but each patient who remains beyond our assistance is another spur to dig deeper into the causes and cures.

The potential is tremendous. The challenge has been made. Our technologies can be refined and our knowledge sharpened. We are at the crossroads of new discoveries. The next 10 years can bring the most important breakthroughs yet. We will know more about the forces that direct our mental energies than we have ever known in the history of mankind.

Mr. President, today's Lieber Prize marks the beginning of a new partnership. The public and private research communities can enrich each other. We can be more optimistic about the next decade of truly exciting research and treatment possibilities for the serious mentally ill.

Madam President, even though I have not used my 5 minutes, I yield back the remainder of any time I might have and yield the floor at this time.

DANGEROUS ADDITION: AMERICA'S CRAVING FOR FOREIGN CAPITAL

Mr. EXON. Mr. President, I call the Senate's attention to a most interesting article that appeared in American Politics magazine, the August 1987 issue. It is written by Mr. Jonathan Paul Yates. The title of the article is "Dangerous Addiction: America's Craving For Foreign Capital."

Mr. President, I will quote briefly from the article and then at the proper time ask that the entire article, a short article, be included in the RECORD. I think this is probably the best summation of the very dangerous road that America is traveling down these days with regard to our reliance on foreign capital to carry our budget deficits in these United States.

Mr. Jonathan Yates, who is a staff member of the House of Representatives, opens his article in this fashion:

In its attempt to convince Japanese investors to place $1 billion in its debt and equity offerings, Bank-America has followed the lead of the U.S. government in relying on foreign capital to meet its operating costs. Because of this reliance on foreign investors—particularly from Japan—to buy treasury bonds and underwrite the Federal budget deficit, the Reagan Administration has come to realize that decision makers for U.S. economic policy can no longer confine their travels to the financial houses of New York and the government institutions of Washington, but must increasingly interact with the Bank of Tokyo in Japan and the Bundesbank in Bonn, West Germany.

To further quote from the article:

Once in office, the Reagan Administration set out to achieve three major goals through its economic programs: slash taxes, reduce the size of the Federal government and increase defense spending. The Administration hoped that government spending cuts, coupled with economic growth stimulated by the tax cut, would compensate for lost revenue and the $2 trillion cost of the defense buildup. When this scheme failed, the Reagan Administration—on a scale never witnessed before—turned to deficit financing to underwrite its economic programs.

Mr. President, I would like to read the closing two paragraphs of this excellent article, as follows:

Steps must be taken to reduce America's dependence on capital from abroad. Relying on foreign capital to meet American economic needs is as dangerous as relying on foreign oil to meet American energy needs. The Federal budget deficit must be decreased to reduce the need for foreign capital. Moreover, measures must be taken to encourage Americans to save more in order to increase the supply of domestic capital.

If our dependence on foreign capital persists, the United States, in the words of one Treasury Department official, will find itself in Brazil's condition, "beholden to overseas creditors . . . always worrying about rolling over its foreign debt and its creditors' reactions when it makes policy."

Mr. President, I ask unanimous consent that the entire article from which I have just quoted and referred to in my remarks from American Politics of August 1987, written by Mr. Jonathan Paul Yates, be printed in the RECORD at this point.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

DANGEROUS ADDICTION—AMERICA'S CRAVING FOR FOREIGN CAPITAL

(By Jonathan Paul Yates)

In its attempt to convince Japanese investors to place $1 billion in its debt and equity offerings, Bank-America has followed the lead of the U.S. government in relying on foreign capital to meet its operating costs. Because of this reliance on foreign investors—particularly from Japan—to buy treasury bonds and underwrite the Federal budget deficit, the Reagan Administration has come to realize that decision makers for U.S. economic policy can no longer confine their travels to the financial houses of New York and the government institutions of Washington, but must increasingly interact with the Bank of Tokyo in Japan and the Bundesbank in Bonn, West Germany.

Once in office, the Reagan Administration set out to achieve three major goals through its economic programs: slash taxes, reduce the size of the Federal government and increase defense spending. The Administration hoped that government spending cuts, coupled with economic growth stimulated by the tax cut, would compensate for lost revenue and the $2 trillion cost of the defense buildup. When this scheme failed, the Reagan Administration—on a scale never witnessed before—turned to deficit financing to underwrite its economic programs.

Relying on domestic capital formations to finance record budget deficits would have pre-empted private needs, escalating interest rates and enervating both recovery from the deep recession of 1982 and Republican election hopes for 1984. In 1985, for example, total private savings in the U.S. were $114 billion short of the $809 billion needed for business investment and government borrowing. The Administration has been so successful in attracting foreign capital to compensate for the shortfall that foreign purchases of treasury bonds have increased 2,000 percent over the last decade, to over $75 billion annually. Financing the U.S. Federal budget deficit has become a joint economic venture of Japan, Inc. and the Reagan Administration.

At first, high real-interest rates attracted foreign funds into secure, profitable U.S. Federal and corporate debt. Real yields on bonds—the rate earned minus inflation—increased 10 points from 1978 to 1982. As a result, foreign purchases of U.S. Federal debt soared from $3.6 billion in 1979 to $28 billion in 1983 to over $75 billion in 1986.

As inflation subsided in the United States and interest rates were lowered, the yield on treasury bonds fell. Since 1985, when the finance ministers from the five industrialized nations agreed to lower the dollar in value, the superior yield of U.S. Federal debt to Japanese bonds has declined by 60 percent. Because of the dollar's decrease in value and the resulting strength of the yen, a $1,000 U.S. treasury bond that cost 265,000 yen in 1985 is worth less than 150,000 yen today (and its yield is 40 percent greater than it would have been had the dollar held its value). "Talking down" the dollar has made U.S. stocks and bonds 60 percent cheaper for foreign investors and has compensated for the lower yield. As a result of this discount, foreign investors provided two-thirds of the net investment capital in the United States last year and will buy more U.S. stocks and bonds this year than American investors.

This growing role in providing investment capital for the United States and purchasing massive quantities of treasury bonds has given foreign institutions, especially those in Japan, increasing influence in U.S. economic matters. Their expanding influence was evident in a series of events that occurred after the United States affixed $300 million in tariffs to Japanese imports in April, which was followed by the passage of a major trade bill in the House.

It took only treasury bond auctions and a visit by Prime Minister Nakasone of Japan before Reagan began to talk of lifting the tariffs and vetoing the trade bill. And, as an inducement to Japanese investors to buy U.S. treasury bonds, Reagan raised interest rates in the United States while Tokyo cut its prime to make U.S. bonds more attractive to Japanese investors. Later, U.S. officials said that future rate changes could be tied to policy actions—including an end to the $300 million worth of sanctions on Japanese goods.

At the treasury bond auction in February, prior to the American tariffs on Japanese goods and the passage of the trade bill, Japanese investors purchased about 40 percent of the offering at an average yield of 7.49 percent. In April, after the sanctions were announced, Japanese investors bought only 20 percent of the bonds being auctioned, forcing the yield to 8.9 percent at the next treasury auction. They also dumped stocks the next day the market was open, driving the Dow Jones average down by 57 points. The cost to Wall Street investors and American taxpayers in higher interest rates on treasury bonds and losses on their stock and bond holdings was in the billions of dollars.

At the treasury bond auction that followed Nakasone's May 1 visit to this country, the Administration's talk of lifting sanctions and the rise in U.S. interest rates in conjunction with Tokyo's interest rate cut, Japanese investors—with strong government encouragement—bought over half of the bonds offered, bringing the yield back down to 8.76 percent. The next day, the White House indicated that a trade bill similar to legislation approved by the House and Senate Finance Committees would be vetoed.

Japan's ability to manipulate the U.S. stock and bond market has been demonstrated before. Last year, four Japanese institutions applied to the Federal Reserve to become primary dealers in U.S. treasury bonds, which would give them the ability to market the bonds directly rather than through an American brokerage house. At the May 1986 treasury bond auction, while their applications were pending. Japanese investors demonstrated their ability to manipulate the U.S. bond market by engineering distortions that resulted in huge losses for several American firms. Shortly thereafter, the Federal Reserve approved the Japanese applications.

Both Washington and Tokyo have countenanced this trans-Pacific flow of funds into U.S. treasury bonds. In 1984, after heavy

lobbying from the Administration, Congress ended tax withholding on interest payments to foreign investors. In 1985, the dollar was "talked down" to allow foreign investors to purchase U.S. stocks and bonds at a discount. Eight months later, the Finance Minister of Japan relaxed restrictions on the amount of foreign securities that Japanese investors could hold as a percentage of their portfolios. And, of course, Japanese institutions were given approval to deal directly in U.S. treasury bonds.

Steps must be taken to reduce America's dependence on capital from abroad. Relying on foreign capital to meet American economic needs is as dangerous as relying on foreign oil to meet American energy needs. The Federal budget deficit must be decreased to reduce the need for foreign capital. Moreover, measures must be taken to encourage Americans to save more in order to increase the supply of domestic capital.

If our dependence on foreign capital persists, the United States, in the words of one Treasury Department official, will find itself in Brazil's condition, "beholden to overseas creditors . . . always worrying about rolling over its foreign debt and its creditors' reactions when it makes policy."

COMMEMORATING NATIONAL HISPANIC HERITAGE WEEK: HISPANIC AGENDA FOR 1990 AND BEYOND

Mr. WIRTH. Mr. President, this is "National Hispanic Heritage Week"; September 13-19. Yesterday also marks the anniversary of Mexico's independence from Spain—September 16—a special day for millions of Hispanic Americans to pause and celebrate their unique culture and history as a people.

Recent statistics indicate that Hispanic Americans are rapidly becoming one of the Nation's most dynamic and fastest growing minority groups. America's Hispanic community is not only emerging as a potent economic force, it is also growing in political strength and as a source for constructive change and prosperity in the country.

To underscore the vitality of America's Hispanic community and to give special meaning to National Hispanic Heritage Week, I am pleased to bring your attention to the work of people in my State who have unveiled a 21-page report entitled, "Hispanic Agenda: 1990 and Beyond." This report is the culmination of work that began more than a year ago when Hispanic community leaders in Colorado decided to engage the community in a broad-based effort to identify issues of concern and solutions to specific problems. In essence, the report is a blueprint for progress in the Hispanic community.

Although the agenda is largely the work of the Latin American Research and Service Agency [LARASA], it draws heavily from the active participation of more than 200 people throughout the community who gathered together on October 18, 1986, at St. Catejan's Center at the Auraria Higher Education Center in Denver, CO, to discuss the economic, social, educational, and political future of Colorado Hispanics. Under the leadership of State Senator Tony Hernandez, Fred M. Acosta, Juana M. Bordas, and Audrey R. Alvarado, the agenda was published and released this week.

I commend it to my colleagues and all interested persons as a thoughtful and articulate summary of concerns and goals that Coloradans—both Hispanic and non-Hispanic—wish to share with the Nation as a whole, and, therefore, ask unanimous consent that the report be printed in the RECORD.

There being no objection, the report was ordered to be printed in the RECORD.

(Note: The charts in the following report are not reproducible in the RECORD.)

HISPANIC AGENDA: 1990 AND BEYOND

(Colorado 1987)

EXECUTIVE SUMMARY

The ultimate goal of the Hispanic Agenda is to enhance the quality of life for Colorado Hispanics and all other Coloradans. To achieve this improved quality of life, the Hispanic community and its leaders must take responsibility to insure that there is a coordinated, integrated and systematic approach to positive change.

The Hispanic population continues to face socioeconomic difficulties. We must now begin to address these issues. As society continues to change at an ever increasing pace, we must employ creative approaches and seek long term solutions to the problems Hispanics encounter in our society. The Hispanic Agenda is a statement of goals and objectives, endorsed and supported by the Hispanic community. When the Agenda is fully implemented, it will allow the Hispanics of Colorado to participate more fully in the economic, social, educational and political mainstream of the state.

The Hispanic Agenda Steering Committee began work in January, 1986, to develop the structure and process for the Agenda. Futuristic and optimistic in its orientation, the Hispanic Agenda addressed eight major components:

Education: kindergarten-12th grade,
Higher education,
Labor and employment,
Economic development,
Housing and neighborhood,
Health and human services,
Political participation and leadership, and
Media,

These components were identified by building a consensus among representatives of the Hispanic community, its leadership and experts who work in each of these areas. Subcommittees were formed to identify specific problem areas and collect information with regard to each of these topic areas. The next step in the process was the development of draft position papers containing short and long term goals and objectives.

On October 18, 1986, the Hispanic Agenda Conference took place at St. Cajetan's Center at the Auraria Higher Education Center, Denver, Colorado. Over 200 participants reviewed the draft position papers and revised the goals addressing the future direction of the Hispanic community and the state of Colorado. The goals were developed with the intention of achieving them within the next five years.

The Hispanic Agenda Steering Committee combined the information contained in the draft position papers with the input from the Conference to arrive at this finalized Hispanic Agenda. The Hispanic Agenda is not meant to be all inclusive. As other issues become priorities, they will be included in the Agenda. This is just the beginning.

This publication renders the blueprint to a vision of the future. It belongs to everyone, Hispanic and non-Hispanic. It is the property of the community. All of Colorado's citizens have the responsibility to see that it is implemented to the fullest measure.

We anticipate that Hispanics throughout the state will make a personal and professional commitment to the Agenda's goals and objectives. It is the hope of all who developed the Hispanic Agenda that this organized effort will be an on-going process which will broaden opportunities and improve the quality of life for Hispanics in Colorado.

HISTORICAL OVERVIEW

The concept of pluralism so beautifully inscribed on the dollar bill E Pluribus Unum—"out of many comes one"—has been the dream and promise of America since the Declaration of Independence, 200 years ago. The state of Colorado, with its rich multicultural heritage has the opportunity and challenge to fulfill this dream. The very name Colorado was given by the Conquistadors, who in search of additional northern territory for the Spanish crown came across Texas, Arizona and New Mexico to a land they named for its vibrant natural beauty and the red clay that colored its majestic mountains—Colorado. Although many people who emigrate here are sometimes surprised by the state's pronounced Hispanic flavor, an understanding of history makes clear the important role, contributions and historical impact Hispanics have had on the settlement and growth of Colorado.

The Spanish heritage of the Southwest is a prominent one, rooted in more than 400 years of history and culture, and dating back almost 200 years before the signing of the Declaration of Independence and 300 years before Colorado became a state. It was in 1598 that Juan de Onate led the official expedition that spread the Spanish Empire's cultural and political presence into what is now the Southwestern United States.

The Spanish colonists synthesized their culture with the Native American people who had lived on the land for centuries. The marriage of the Spanish and Indian cultures resulted in a new, dynamic and creative ethnic blend which produced unique institutions, art, literature and values. The Spanish introduced ranching and stock raising, public schools, silver-working, architectural style, citrus fruits, Christianity, water laws and community property concepts. The Indian culture brought its knowledge of the land, cultivation for preparation and preservation, crafts and art design, folk medicine, hunting and tribe or community consciousness. The descendants of this culture marriage are the Hispanics of Colorado and the Southwest today.

In 1821, Mexico gained its independence from Spain, and Anglo-Americans were allowed legal entrance into Colorado and the Southwest. A healthy trade developed between the United States and Mexico. A major trade route included the Mountain

Branch of the Santa Fe Trail that utilized Bent's Fort through Raton Pass into Santa Fe.

While trapping and trading had brought Spanish and Mexican incursions into Colorado before 1821, land grants and the sprouting of trading posts along the Arkansas River encouraged the development of permanent settlements. Mexicans and Anglos were pulled together into compatible relations as the Anglos came in to "Settle the West." Mexicans acted as guides, translators, merchants, packers and soldiers and taught the "new immigrants" how to survive in this beautiful land.

In 1846, the United States went to war against Mexico and resulting with the Treaty of Guadalupe Hidalgo, annexed almost half of the Mexican Hidalgo. The following states or portions thereof became part of the United States; New Mexico, California, Oklahoma, Kansas, Nevada, Utah, Arizona, Texas, Colorado, and Wyoming. The Mexican residents of the ceded territories were granted United States citizenship and became "charter members" of the state. As a standing tribute to their previous history, the communities of the Southwest often retain the Spanish "plaza" plan, architecture, and construction of adobe. Southwestern arts, crafts and food have remained an integral part of this area's cultural distinction.

The Civil and Indian wars, combined with the Gold Rush, attracted soldiers, prospectors, settlers, and land speculators from California and eastern United States. As these new people arrived, they too were taught how to survive and earn their livelihood by the Hispanic people. Skills taught included; mining by use of the batea and the arrastra methods; ranching and animal herding; farming and cultivation; trading and trapping. The integration of the state of Colorado, with the diversity of people it has today, had begun.

In the territorial period and into statehood in 1876, Colorado Hispanics entered political arenas and played substantive roles. Casimiro Barela, for example, known as the "Perpetual Senator," not only led the southern Colorado delegation in protecting the rights of the "charter members," but assisted in writing the Constitution of the state. So great was his influence that his likeness is preserved in the State Capitol dome today.

Industrialization and development in Colorado during the latter half of the nineteenth century attracted additional "charter members," as well as Mexican immigrants who came to work on the railroads, in the mining industry, in agriculture, (e.g., Great Western Sugar) and, ranching (e.g., sheep and cattle). Many migrant workers whose origins in Texas placed them on a migrant trail to eastern Colorado decided to remain and relocated in numerous communities along the front range. Hispanics, through their hard work and contributions to the labor force, built the state of Colorado and forged the foundation of today's economic base.

Intensive immigration from Mexico during the first decades of the twentieth century was caused in part by the active recruitment of a cheap labor force and by the political turmoil of the Mexican Revolution (1910-1934). New organizations emerged during this era that expressed concerns for cultural preservation and political status. Mutualistas (mutual-aid societies) provided services throughout Colorado and formed alliances throughout the nation with like-minded groups. This included "charter members" who were here before Colorado became part of the United States, recent immigrants from Mexico, and also many supportive people like former Colorado Governor Bill Adams.

World War II marked renewed economic development as industries moved inland in response to the threat of invasion. Colorado Hispanics became an urban population as emigrants moved near their war-related industries. In response to a need for an enlarged labor force, legislation encouraging Braceros, Mexican national workers in the United States, answered this demand for labor. Serving with great distinction in the military during World War II, Colorado Hispanics continued their contributions in defense of their nation. A patriotic people, Hispanics today have more Medal of Honor recipients per capita than any other group.

The nation's long and challenging history of border problems and illegal aliens has had a powerful impact on Colorado. Starting with the "charter members" who were here before Colorado became a state and again during World War II, there has been an open and then closed door policy toward aliens. This "revolving door" let people in when cheap labor was needed and then closed again when economic times necessitated a tight labor market. Nevertheless, this emigration pattern has had some beneficial effects on Colorado Hispanic culture, which has been constantly revitalized by the contributions of recent immigrants, particularly in language, customs and values. It has also produced backlash and prejudice against undocumented workers and accusations that Hispanics do not assimilate into the dominant culture.

Yet today, in the aftermath of the Civil Rights movement, which promoted the rights of Blacks, Hispanics and other people of color, Hispanics have made great strides in advancing socially and economically. Hispanics today are better educated, and can be found in all levels of business, government and society. Hispanics are beginning to exert the same strong influence on this state that they did in the early days of Colorado's history. One reason for this is that Colorado Hispanics actively participate in politics. Hispanics are also a growing population. As their numbers increase, they will have a greater impact on Colorado and the nation as a whole.

Colorado Hispanics bring a unique cultural blend integrating the individualism and hard work of the Western settlers with the rich heritage of Native American people. Colorado Hispanics have contributed much to the development and growth of Colorado, standing as an example of a people who love their country and their culture and who have assimilated without losing their cultural identity. The success of Hispanics in Colorado will contribute to the success of the entire state.

DEMOGRAPHICS

While the nation's total population increased by 11.5 percent between 1970 and 1980, the total Hispanic population increased by 61 percent, totaling 14.6 million (a 6 percent annual growth rate). The Mexican origin Hispanic subgroup increased by 93 percent, followed by Cubans at 48 percent, Puerto Ricans at 41 percent, and "Other Spanish" origin peoples at 21 percent. Current census reports estimate a 16 percent growth rate from 1980 to 1985 for Hispanics nationally (16.9 million), in contrast to 3 percent for the total U.S. population.

In 1980, Colorado ranked ninth nationally in its concentration of Hispanics. Hispanics constituted 11.8 percent of Colorado's total populations (see Chart 1). As the following map of Colorado counties illustrates, two of 63 counties in Colorado has a Hispanic majority (Costilla—77 percent, and Conejos—61 percent). The bulk of Hispanics in Colorado self-identified as Mexican/Mexican-American/Chicano (61 percent). The second largest hispanic subgroup identified as "other Spanish" (37 percent). Puerto Ricans and Cubans constituted less than 2 percent. State projections estimate the Hispanic growth rate at nearly 16 percent between 1985 to 1990, contrasted to 10 percent for Colorado's state population.

In 1980, slightly more than half of Colorado's Hispanics lived in the Denver metro area, with 53 percent of those having lived in the city and county of Denver. That is, over one-fourth of Hispanics in the state resided in a single urban area. In line with national statistics, Colorado Hispanics are an urbanized population, with 85 percent residing in major urban areas.

The educational status of Hispanics in Colorado closely parallels other states with a high concentration of Hispanics. In 1980, 51 percent of Hispanics 25 years or over did not complete high school, and less than 10 percent completed college. Estimates on Hispanic high school dropouts range from as low as 11 percent to as high as 50 percent.

The median family income of Colorado Hispanics in 1979 was $15,412 compared to $21,940 for non-Hispanics. When the number of persons per household is taken into account, the disparity in income is amplified. The per capita income for Hispanic persons per household was $4,714 in contrast to $8,585 for non-Hispanics. In other words, the average income per person in a non-Hispanic household was nearly two times that of Hispanics.

One of the most striking characteristics of the Hispanic population, both nationally and locally, is its youthfulness. The age pyramid in Chart 2 graphically shows the difference in age distribution between Hispanics and non-Hispanics. The contrast in age is particularly evident in the "less than 20 years of age" categories. In 1980, 40 percent of Hispanics were under 18 years of age in contrast to 26 percent of non-Hispanics. Overall, Hispanics are considerably younger than non-Hispanics. In 1980, the median age of Hispanics in Colorado was 22.5 years in contrast to 29.4 years for non-Hispanics. Furthermore, fertility is higher for Hispanic women (2,428 children per 1000 women 15 years and older) than for total Colorado women (1,752/1000). The fertility rate for Hispanic women is projected to remain unchanged through the mid 21st century.

SUMMARY

Given the Hispanic population's youthfulness, high fertility rate and continued growth, Hispanics will become an increasingly more vital segment of Colorado's population. Efforts to integrate Hispanics into the economic and political mainstream would benefit not only the Hispanic community, but the state of Colorado as well.

HISPANIC AGENDA: 1990 AND BEYOND (MAJOR COMPONENTS)

KINDERGARTEN THROUGH 12TH GRADE EDUCATION

Hispanics are a young, vibrant and energetic population. Forty-five percent are under the age of nineteen. Hispanic youth

are and will continue to be a valuable resource for employers. This youthful Hispanic population will be working longer and contributing more dollars into the federal social security system than any other ethnic population. Therefore, it is in the best interests of both the Hispanic and majority populations to improve achievement levels of our Hispanic youth on the elementary and secondary levels. The result will be an improved quality of life for all citizens of our state.

Issues

The following areas are key concerns for the Hispanic community: Academic performance of Hispanic youth; Attendance rate of Hispanics; Drop out rate; Institutional racism in the education system; Current school finance method.

Based on statewide assessment of student achievements, Hispanics are performing at a lower level than Anglo students. Specifically, utilizing the Iowa Tests of Basic Skills/Tests of Achievement and Proficiency, Form G, Hispanic performance ranged from 14 to 21 percentile points below all students. The areas tested included vocabulary, reading and language skills, work-study skills, mathematics skills, social studies and science. (See Chart 5 from "Status of K-12 Public Education in Colorado, 1986," published by the Department of Education.)

Hispanic youth are challenged to survive in the current educational system. Part of the responsibility for the lower performance of Hispanics rests with the structure and method of teaching in Colorado school systems. Historically Colorado's education system has received a failing grade in promoting academic success of ethnic minorities. Absence of a "climate of excellence" in the classroom contributes to this shocking educational ineffectiveness. Teachers who have low expectations of Hispanic achievement get the results they expect. There has been minimal commitment to preventive, early intervention efforts or encouragement of innovative teaching methods. The emphasis has been on remedial-type programs reaching students at a later stage in their schooling. To bring about improved student performance, early intervention needs to become a priority.

Hispanics are also dropping out of school in dangerously large numbers. Some studies estimate that 50 percent of Hispanics do not complete high school. Chart 3 dramatically shows the educational completion differences between Hispanics and non-Hispanics across urban and rural areas. For Hispanic adults 25 years and older, 40.9 percent in rural and 47.8 percent in urban areas completed high school. In contrast, 80.1 percent of non-Hispanics living in rural and 81.2 percent living in urban areas completed high school.

As reported by the Colorado Department of Education in a 1986 study which only includes data from 10th to 12th grade, the Hispanic drop out rate is 11.3 percent. The 1980 census data also show that Hispanic youths in the 18-24 age group were far less likely to have completed high school than non-Hispanics. For Hispanics living in rural areas the completion rate was 59 percent compared to 60 percent for urban Hispanics. For non-Hispanics the completion rate in rural areas was 77.4 percent compared to 82.7 percent for urban non-Hispanics. (See Chart 4.)

A recent Stanford University study estimated the lifetime cost to society of dropping out to be about $200,000 per drop out—approximately $20,000 for social services, $50,000 in lost tax revenue and $130,000 in lost net income to the individual. The drop out situation is at crisis proportions.

Failure is compounded by the lack of acceptance of the pluralism that characterizes our state and our nation. As a result, institutional racism continues to exist in the education system. Racism is evident in lower expectations by teachers and educational administrators of the Hispanic child. Racism is demonstrated in the lack of Hispanic role models in the class-room, a higher discipline and suspension rate among Hispanic students, and a curriculum that ignores Hispanic historic contributions to the development of Colorado and our country. The call for excellence in our schools must be applied across the board.

The current financing method of public education is a major problem affecting all of our children in Colorado. First, financing for education is decreasing. As reported by the Colorado Legislative Council, the financial support of K-12 education in constant dollars has decreased each year for the last five years. The state contributes 47 percent of the total funds, and the local property tax burden is 53 percent. The current school finance law is not meeting the needs of Hispanic students. It requires revision, not only to ensure educational opportunity, but also to prevent educational opportunity from being solely a function of local property tax.

Responsibility

The primary responsibility for increasing the academic success of Hispanic youth lies with the Hispanic Community. However, parents, students, the state and private sector must all participate wholeheartedly in this undertaking. The quality of life for all citizens of Colorado will be enhanced by the success of Hispanic youth in K-12 education.

Kindergarten through 12th Education Goals

Decrease by 15 percent the number of class days missed.

Increase by 3-5 percent per year the compentency test scores for Hispanic students in each test component.

Increase by 10 percent per year the number of Hispanic students who pass the competency test(s) the first time.

Decrease by 10 percent per year the drop-out rate.

Institute a multi-cultural curriculum in Colorado's K-12 education system.

Rewrite the School Finance Law and base it on educational need.

Increase to a minimum of 50 percent the financing contribution of the state for K-12, thereby reducing the local property tax burden significantly under 50 percent.

Develop and implement standard state accountability measurements for each school district in Colorado.

Increase parental and community participation in the educational system through tutoring, mentoring and role model programs.

Increase by 40 percent early intervention education.

HIGHER EDUCATION

Colorado depends on a highly educated and trained labor force. Higher education and Colorado's future growth are inextricably intertwined. The Hispanic population will serve as a major pool from which to draw faculty, staff and students. Unfortunately, to this date, Hispanic participation in institutions of higher education has been minimal. Efforts must be made to turn the tide in order to lay the groundwork for the future growth of our state and the success of its citizens.

Issues

There are three major issues in higher education affecting Hispanics:

Recruitment, retention and promotion of qualified Hispanics in institutions of higher education.

Recruitment and retention of Hispanic students and financial assistance to help them complete their education;

Lack of involvement and participation of Hispanics in influencing policy through employment and appointments on policy-making boards of government and commissions in higher education.

The numerous higher education issues relating to Hispanic faculty and staff are intertwined. Hispanics are under represented at the levels of faculty and staff personnel. In 1984-85, it was estimated by Western Interstate Commission on Higher Education (WICHE), that less than one percent of executive, administrative and managerial positions were held by Hispanics in Colorado and that fewer than two percent of higher education tenured faculty positions were held by Hispanics. Chart 6 shows that of Hispanics working in institutions of higher education, 58 percent are in non-tenured or other faculty positions.

The lack of support systems for Hispanics working within higher education has hindered the entry and retention of Hispanics into higher education institutions. Fewer networks exist to inform individuals of upcoming vacancies. Attempts to increase the numbers of Hispanics by enforcement of Affirmative Action guidelines has not been successful because of a lack of commitment by institutions of higher education and the State Legislature.

Many Hispanic students rely on financial assistance to obtain an education. Along with a decline in aid, there has been a corresponding decline in recruitment efforts directed at minority students. According to the latest available data, Hispanics received 3.2 percent of the baccalaureate degrees conferred in 1983. Chart 7 shows that in 1980 less than 10 percent of Hispanics, 25 years and older, residing in urban and rural areas, completed four years of college. In contrast 24.7 percent rural non-Hispanics and 31.3 percent urban non-Hispanics completed four years of college. In 1990, it is projected that only 5.6 percent of higher education degrees will be conferred to Hispanics, despite the fact that Hispanics between the ages of 15 to 19 will represent 11 percent of the total school population.

The decline of the traditional white, 18-24 years old student has renewed interest among higher education institutions in recruiting non-traditional students. If colleges and universities are to contribute to the quality of life, they must begin to work more aggressively in the areas of recruitment and retention of Hispanics in all institutions of higher education. Chart 8 shows that one of four Hispanics are enrolled in two year colleges in 1985. Hispanic representation must be expanded to four year and graduate institutions to enable Hispanics to compete in the areas requiring high technology degrees.

Elementary and secondary educators also are responsible for expanding the pool of qualified and interested college-bound students. Kindergarten through twelfth grade educators have not uniformly focused on encouraging and preparing Hispanic students for college.

At the system level Hispanics have not been represented on governing boards and commissions related to higher education. The few that have been appointed have not been as effective as they could be because of limited support systems and a lack of commitment of the governing bodies to the Hispanic community. Affirmative action policies and plans have been developed without a strong commitment to enforcement. This has contributed to the continuation of a laissez-faire attitude toward the educational needs of Colorado's Hispanic community.

Responsibility

There are a number of responsible parties that could positively influence change in the area of higher education. The Hispanic community must continue to play a major role in promoting and encouraging our youth to pursue their education. Hispanic faculty and staff must work together to promote themselves and others in the system. State governmental entities must accept responsibility for implementing affirmative action policies, that are more than plans with good intentions and possess a strong enforcement component. The private sector, with much to gain from a highly educated work force, must begin to invest in higher education and the future Hispanic leaders of Colorado.

Higher Education Goals

Increase by at least 10 percent recruitment/retention efforts of Hispanics in higher education.

Increase from 3.2 percent to at least 10 percent baccalaureate degrees earned by Hispanic students.

Increase by 15 percent the numbers of Hispanic faculty personnel in higher education.

Increase by 10 percent annually financial aid for qualified Hispanic students.

Increase the representation of Hispanics on governing boards and commissions to achieve at least parity.

Develop a state-wide student transition support program.

Establish a communication clearinghouse regarding higher education opportunities for students and faculty.

LABOR AND EMPLOYMENT

Hispanics represents a growing proportion of the U.S. labor force. They are a youthful population in an aging society. Today, about 6.7 percent of our nation's workers are Hispanic. This proportion will increase to about 10 percent by the year 2000.

The employment status of Hispanics and other minorities will be increasingly important in the future. In 1952, there were 17 workers for every retiree on Social Security; by 1992 demographers project that there will be only three—and one of these will be a minority group member. Thus the employment skills of minority workers will be critical not only for the nation's productivity and competitiveness in the world market, but also for the solvency of the Social Security system, according to a 1987 report of the National Council of la Raza.

Unemployment and underemployment have been chronic problems in the Hispanic community. Double-digit unemployment has been a reality during both good and bad economic times; in 1985, Hispanic unemployment in Colorado averaged 12.2 percent, compared to 5.6 percent for whites.

Issues

There are three major issues in labor and employment affecting the Hispanic community:

Hispanic unemployment rate is twice the rate of Anglos;

Significant numbers of Hispanics lack formal education and skills training for changing labor force demands.

Hispanics are over-represented among occupations likely to suffer from high job losses.

The Hispanic unemployment rate during the last ten years has remained about two times that of Anglos. In 1980 Hispanics in rural Colorado were close to three times more likely to be unemployed than non-Hispanics (as shown in Chart 9).

The single most important barrier to success in the labor market for Hispanics is their low level of educational attainment. There is no doubt that the typical job or occupation of the future will require advanced education and/or training. Increasing workers' job readiness skills is a prerequisite to reducing the unemployment rate. In the future illiteracy will no longer mean a low paying, labor intensive, menial type of employment—it will mean no job at all.

Hispanics also suffer from serious inequities in occupational distribution. Both Hispanic men and women are strikingly under represented in white-collar jobs and over represented in low-skill blue-collar jobs with low wages and limited opportunities for advancement, as shown in Chart 10. It is no surprise then that Hispanics in the work force receive the lowest weekly wages of any major group in the labor market, with Hispanic women reporting the lowest wages. Hispanic families experienced a decline in real income in 1985.

Employment training must be two-pronged: first, it must increase literacy to enable the worker to begin to earn a living; secondly, as a condition of employment, the worker will be provided with continuing training. The latter protects workers who are engaged in occupations that will see significant losses because of technology improvements.

According to recent studies, Colorado ranks 13 out of the 50 states with regard to "climate of growth" in terms of jobs and new companies. Yet this growth essentially excludes Hispanics who lack the formal education and training for a hi-tech, service-sector economy. At the same time because of the youthful composition of the Hispanic community, Hispanic workers can and will be a driving force for industries of the future.

Responsibility

Colorado's human resource investments represent a critically important commitment. Expanding opportunities for Hispanics and non-Hispanics can be achieved through a partnership of state and local government and the private sector, utilizing economic development strategies, education and employment training programs. In addition, Hispanic workers must be endowed with the motivation and self-resolve to improve their current plight. The community can assist in this process and set high standards, provide leadership, raise consciousness and provide the necessary accountability. The end result will be greater prosperity for all Coloradans.

Labor and Employment Goals

Increase by 40 percent the literacy of Hispanic workers.

Increase by 30 percent the private and public partnership training program funds.

Increase by 40 percent the number of Hispanic workers in training programs.

Increase by 40 percent the utilization of the Job Training Partnership Act program in the Hispanic community.

Reduce by 5 percent the Hispanic unemployment rate.

Increase by 30 percent labor force participation of low income Hispanic female heads of household.

Expand by 20 percent the educational opportunities available to underemployed and high risk loss occupations.

ECONOMIC DEVELOPMENT

America has one of two choices. We can accept a lower standard of living by cutting the wages of blue and white collar workers, or we can raise our standard of living through effective public/private investment. The goal of such investment would spur the growth of new high-paying, high-tech and information based industries. The Hispanic Agenda chooses the later approach.

The economic success of Hispanics is dependent on America's ability to compete in the world. Conversely, America's ability to compete in the world is also heavily dependent on the effective and successful investment in her Hispanic citizens. Obviously, the education of America's youth, including a soaring population of young Hispanics, plays a crucial role in our nation's ability to compete and prevail in today's and tomorrow's world economy.

The U.S. Census Bureau reports that the number of Hispanic-owned businesses in the United States increased by 53 percent between 1972 and 1977. Receipts from those firms totaled $15 billion in 1982, a substantial increase over a five year period. On average and in almost all cases, Hispanic businesses are small businesses.

Issues

There are four major issues confronting the Hispanic business community;

Limited access to capital and management/technical assistance;

Revitalization of neighborhood Hispanic business;

Internal coordination of Hispanic community;

Systematic and institutional racism.

The fate of small businesses and future employment opportunities are closely linked. Between 1981 and 1985, Colorado added an estimated 80,000 net new jobs. Small, independently owned new business played a key role. Over 59,000 of these net new jobs were in firms with less than 20 employees and over 51,000 in local, independently owned firms. Firms with less than 100 employees now account for over half the jobs in Colorado.

Start-ups have and will continue to dominate the state's growth in employment. As a result, a sound Hispanic economic development strategy should nurture the successful growth of Hispanic-owned small businesses. Such an approach will result in a significantly increased number of high-quality jobs for Hispanics.

Like all small businesses, potential and existing Hispanic enterprises require start-up and consecutive rounds of financing to grow. An individual small business often has almost all the right pieces in place—right product, right market and right time. Frequently, the only pieces missing are available and/or affordable capital, and management and specialized technical assistance.

Revitalized neighborhood retail/service businesses are needed in the community. Many small businesses in Hispanic neighborhoods are owned by non-minorities. His-

panic entrepreneurship must be promoted. Hispanic consumers should be encouraged to patronize Hispanic business; in too many cases, they are required to shop and buy goods and services outside the neighborhood.

While some progress has been made, the Hispanic business community must coordinate its efforts. More collaboration is needed in areas of joint venturing, subcontracting, and purchasing products and services. A lack of coordination causes many Hispanic enterprises to lose significant business with the following types of potential customers: major local corporations, state and municipal governments and federal government.

Systematic, institutional racism remains a barrier to Hispanic progress. Significant economic "mainstreaming" of Hispanics remains to be done. The level of participation in our state's economy is not satisfactory. We need more Hispanic business people serving as role models.

Responsibility

The Hispanic community as a whole must take responsibility, including obtaining the cooperation of local corporations, other Chambers of Commerce, and state and local government. Significant economic success can be achieved if the community effectively coordinates and executes their plans. The Hispanic Chamber of Commerce can provide a focal point for revitalization of the Hispanic business community. The executive and legislative branch of government must involve Hispanics in the state's economic development planning, as well as advocate opportunities for Hispanics in the plan's implementation.

Economic Development Goals

Establish 100 new Hispanic owned businesses.

Increase by 100 percent Hispanic business receipts.

Increase by 300 the number of employment opportunities within each Hispanic neighborhood.

Create through the State Legislature Small Business Development Credit Corporations that will provide financing and management/technical assistance.

Unbundle contracts with local corporations thus providing more opportunities for Hispanic Small Business Owners.

Centralize the minority certification/guideline education and information process.

Increase knowledge of the bidding process among Hispanic Small Business Owners.

Initiate and establish a Hispanic Small Business Owners resource information clearinghouse in cooperation with the Hispanic Chamber of Commerce.

Establish an annual Hispanic Small Business Owners Trade Fair for public and private sector organizations.

Increase by 35 percent funds raised for neighborhood economic development organizations.

Implement a one-stop regulation and certification office.

Establish a statewide minority small business council.

HOUSING AND NEIGHBORHOOD

The breadth and diversity of housing issues facing Colorado . . . the price at which the private market system can provide housing and the ability of low-income households to pay for the housing. Until recently the federal government has taken the lead in addressing the needs of those residents whose housing requirements were not being met by the private sector. Today there is a new opportunity for state and local government working together with the Hispanic community to improve the housing and neighborhoods in Colorado.

Issues

There are four key housing and neighborhood issues that affect Hispanics;

The lack of affordable housing throughout the state of Colorado;

The need for revitalization of Hispanic neighborhoods and existing housing units;

Freedom of choice for Hispanics to live anywhere;

The need to identify and purge regulations and priorities that negatively impact the affordability and the quality of housing.

The main housing issue is affordability. In 1985, 32 percent of Colorado renter households and 10.6 percent of owner households were living in inadequate units or paying too high a proportion of their income for shelter. A significant portion of the Hispanic population is unable to afford adequate housing.

Secondly, revitalization of Hispanic neighborhoods is essential to our quality of life. The owner occupied housing stock in the state is aging. The combination of aging housing with a lower-income owner, particularly in rural Colorado, often results in deterioration of the unit and its eventual * * * taken, affordable housing units deteriorate until they are eventually abandoned or demolished. Too often the results is complete retrogression of the neighborhood.

Assuring that Hispanics have the freedom of choice to live anywhere within the metro area and the state of Colorado is critical. A recent study of affordable housing in the metro area and the state indicated that Hispanic families whose income does not exceed $25,000 per year are required to live in areas where the housing stock is less than adequate for their needs.

The last issue impacting Hispanic housing and neighborhoods addressed the regulations and priorities of a variety of state agencies and commissions that directly affect housing costs. We need to identify and revise regulations within state and local governments as well as private housing regulations that negatively impact affordability and quality of housing.

Responsibility

The responsibility of remedying the housing situation and revitalizing Hispanic neighborhoods lies with the Hispanic community. We must promote and take direct action to improve the quality of shelter and quality of life in Hispanic neighborhoods. Businesses, including—but not limited to—banks, savings and loan associations, insurance companies, private developers, foundations, private and quasi-public corporations, have a major responsibility in playing a positive role in improving the quality of shelter and life in Hispanic neighborhoods. The federal government should also continue to play a significant financial role in housing, especially ensuring that low and moderate income individuals, State and local governments must also concern themselves with housing policies to insure that adequate and affordable housing is an achievable goal.

Housing and Neighborhood Goals

Establish a Housing Trust Fund to provide a source of funds to Hispanics throughout Colorado and to support housing initiatives in Hispanic communities.

Establish a blue ribbon committee to identify resources available for housing to promote neighborhood rehabilitation.

Activate a "fairshare allocation" model in which local governments agree to provide affordable housing in their communities accessible to Hispanics.

Insist that local governments offer incentives to private developers to build a percentage of units for low and moderate income individuals.

Explore the utilization of employee pensions as a source of revenue for housing, rehabilitation and/or development.

Support legislation that positively addresses the issue of Warranty of Habitability (standard living conditions for renters).

Insure that all economic development policies responsibly address housing development and the impact on the quality of life of residential neighborhoods.

Demonstrate the economic benefits of affordable housing initiatives and neighborhood rehabilitation programs to the state legislature, emphasizing the positive role legislators can play in housing development.

HEALTH AND HUMAN SERVICES

The relationship between education, job training and employment, housing and economic development is closely linked to the need for public human services and health programs. Because of socioeconomic factors, Hispanics are disproportionately represented as consumers of public programs in health and human services. Like all other consumer populations, Hispanics have the right to receive quality services provided in a sensitive and professional manner. Hispanics must be afforded equal and open access to programs which will address their needs. Any cultural or language barriers which may impede or prohibit the delivery of services must be addressed and solutions implemented to assure quality care for Hispanics.

Issues

The following are four major concerns for the Hispanic community;

Poverty of Hispanic women and teenage pregnancy;

Lack of preventive health care;

Alcohol and drug abuse;

Accessibility to quality health care.

In 1984, the U.S. Civil Rights Commission reported that women were quickly becoming the largest poverty group in the nation. A large percentage of these impoverished women are Hispanic. In Denver as Chart II shows, approximately half of the families headed by Hispanic women live in poverty, compared with one-third families headed by white women. If day care were more available, female heads of households would be less dependent on Aid to Families with Dependent Children (AFDC). Although having a job does not in every case bring an end to poverty, women would have a better opportunity of fighting poverty through job training and employment.

As reported by the Piton Foundation in A Profile of Poverty in Metropolitan Denver, "teenage pregnancy, which occurs at a higher rate in neighborhoods where poverty is concentrated, contributes to the growing number of female-headed families. Many teenage mothers drop out of school, attempt to rear their children by themselves and need long-term public assistance. Half of the families receiving Aid To Families with Dependent Children (ADFC) in Denver are headed by women who were teen mothers. Among teenagers in Denver, Hispanics had the highest pregnancy rates (114 per 1000 women) . . ."

In addition, poverty has a significant affect on availability of prenatal care. Because of a lack of prenatal care, newborns have a higher incidence of illness and birth defects and mothers have a higher occurrence of delivery and post delivery health problems.

Another factor contributing to the poverty of single parent families is the absence of child support. As reported by the Federal Office of Child Support Enforcement in 1983, 8.7 million women in the United States were raising children without fathers in the home. Of these, 58 percent, or five million, had court orders or agreements establishing a right to child support. Only half of these mothers, 2.5 million, received the full amount owed. Another quarter, 1.3 million, received only partial payments, while the remaining 1.2 million received nothing at all. Although specific ethnic data is not available for Colorado, lack of payment of child support is a problem in the Hispanic community, as well as for the total community.

Child abuse and neglect are present in the Hispanic community. In 1980, Colorado's statistics showed 4,775 cases of reported abuse; of these cases, 1,409 were non-white; 17.6 percent or 843 were Hispanic. The State Department of Social Services notes several factors that should be taken into account in interpreting the higher reporting rate for Hispanics, in particular, the effects of poverty. Hispanic families, on average, experience greater economic stress which in turn may result in increased risk for abuse or neglect. Also, a higher proportion of Hispanics live in inner-city neighborhoods, and the stresses of inner-city living may increase risks for abuse and neglect.

Further, the higher rate may be due to reporting phenomena rather than to actual differences in levels of abuse or neglect. Higher levels of contact with public social agencies and health clinics increase the odds that a "suspicious" injury will be referred to protective services. Prejudice, perhaps operating subtly among both professionals and nonprofessionals, may increase the odds that a referral will be made in a "questionable" situation. In sum, socioeconomic factors in combination with reporting goals seem to explain much of the difference in rates.

The third issue, alcohol and drug abuse, is a serious and costly problem. According to the 1984 State Plan for Alcohol and Drug Abuse Treatment, Hispanics constitute 18.6 percent of the Denver population, but accounted for 25-31 percent of the Denver DUI arrests from 1973-1981. It is estimated that Hispanics accounted for 22-26 percent of statewide involuntary commitments to alcohol treatment, while representing only 11.8 percent of state population. However, these high statistics could be attributed to the variance in the application of alcohol related laws in Hispanic communities.

Mortality rates for Hispanics are 33 percent greater than that of Anglos. Comparisons show that on the average the life expectancy rate for Hispanics is five years shorter than that for Anglos. The major causes for lack of preventive health care to Hispanics are poverty, the rising cost of health care, lack of insurance benefits, physical accessibility and mobility (i.e., elderly), cultural barriers, the dehumanization of our health delivery systems, and lack of information on disease prevention and health care.

Responsibility

To positively impact Health and Human Services for Hispanics, the Hispanic community must take responsibility to advocate for improved and expanded services. The private and public entities responsible for health care and human service delivery throughout the state of Colorado must improve delivery systems, accessibility and quality of care to expand services to the Hispanic Community.

Health and Human Services Goals

Increase by 10 percent the AFDC allotments for all children and families who have no other source of income.

Increase by 25 percent the availability of low cost/subsidized day care and other supportive services for low income women.

Increase by 30 percent the number of educational and training programs for low income female heads of households.

Increase by 40 percent child support payments and/or collection.

Increase by 25 percent the number of prenatals and parenting programs for teenage single parents.

Encourage health and human services delivery systems to reduce cultural and language barriers.

Increase preventive health care educational programs focused on the Hispanic population.

POLITICAL PARTICIPATION AND LEADERSHIP

The population growth of Hispanics and their increasing participation in the political process has and will continue to impact national and statewide elections. Currently Hispanics are the second largest ethnic group in the United States. By the year 2060, Hispanics will become the largest ethnic group. Sheer numbers will give Hispanics enormous political clout.

Influencing public policy decision-making requires active and vigorous participation in the political process. Hispanics must continue to intensify their level of political participation to advocate and defend their community interest.

Issues

There are three major issues that affect the Hispanic community:

Lack of political sophistication and internal coordination within the Hispanic community;

Deep and widespread sense of political apathy within the community;

Systematic and institutional racism.

Hispanic representation in public office has increased significantly in recent years. Colorado has over 160 Hispanic elected public officials. Hispanics currently serve as state legislators, mayors, municipal officials, assesors, sheriffs and school board members. While such individual successes are impressive, incumbent Hispanic office holders need to start identifying, recruiting, working with and developing future political leaders. In addition "state of the art" political campaign techniques, now widely known and understood throughout the community, need to be employed. Further, there needs to be improved communication vehicles enabling Hispanic public officials to report on the impact of legislation and policy on Hispanics.

A sometimes unresponsive political structure has resulted in a significant level of apathy among Hispanics. Many believe that the political process and public policy issues are irrelevant to them individually and to the future of the community as a whole. Although the number of Hispanics registered to vote has significantly increased, more Hispanics need to be encouraged to register. In addition, more effort to increase voter turnout is critical.

The Hispanic vote can and will decide elections. As reported by the National Association of Latino Elected and Appointed Officials Education Fund (NALEO), when a candidate for statewide office captured 14.6 percent of the Hispanic vote in Colorado, his or her overall total vote increased by one percent. To increase voter turnout among Hispanics, we need to demonstrate the power the Hispanic community can bring to bear on improving their quality of life by exercising their right to vote.

Systematic and institutional racism remain significant obstacles to increasing the impact of Hispanics in the political process. In many areas of Colorado, at-large elections prevent Hispanic citizens from holding public office. Frequent attempts are made during the reapportionment process to "gerrymander" existing and potential Hispanic districts. Furthermore, economic discrimination, combined with the growing financial requirements of politics, preclude many Hispanics from conducting viable election campaigns.

Responsibility

Significant political successes can be achieved if the Hispanic community takes responsibility, plans and acts in an effective and coordinated manner. Colorado has a great opportunity to engage, challenge and utilize the leadership available in the Hispanic community. By electing Hispanic leaders to public office, the Hispanic community can more fully realize its vision and dedication to improve the quality of life for Hispanics and all Coloradans.

Political Participation and Leadership Goals

Identify and implement strategies to eliminate at-large state and local elections across Colorado.

Facilitate increased Hispanic representation by ensuring the appointment of at least two Hispanics to the 1990 reapportionment commission.

Develop a "think tank" that communicates public policy and political positions of direct interest of Hispanic individuals and the community.

Utilize the "think tank" to promote closer collaboration between existing and potential public office holders and the community.

Increase by 20 percent Hispanic voter registration.

Increase by 30 percent the Hispanic voter turnout for elections.

Coordinate fund raising within the community by creating a Hispanic Political Action Committee.

Encourage Hispanic elected officials to report the potential impact of public policy to Hispanic organizations.

MEDIA

As the Hispanic population grows, the influence of media coverage and Hispanic representation in the media will have enormous impact in shaping opinion and projecting images of the Hispanic community. Print, radio and television media have a fundamental responsibility to report on community events, as well as to inform the community about national and international events.

Issues

There are two major issue areas related to the media:

Under-representation of Hispanics in the media;

Coverage of Hispanics by the media.

There are only a few Hispanic, on-air/on-camera personalities on major radio or television stations in Denver. Although Hispanics comprise about 12 percent of Colorado's population, less than two percent of news room staffs are Hispanic. A major concern of Hispanics in the media is they often become the lone booster of Hispanic events and activities and are typecast as "the Hispanic reporter." The limited number of Hispanics in the media also results in a paucity of role models for Hispanic youth.

The need to improve news coverage of the Hispanic community is essential to developing a more positive image of Hispanics. By focusing on positive aspects of the community, the media could develop a constructive working relationship and gain a more respectful perception of the Hispanic community.

There is also a need to increase the media's interest in covering newsworthy Hispanic events. Far too often, the media has not been notified in advance of newsworthy events. The Hispanic community generally distrusts the media to cover events objectively and accurately. This has hampered dissemination of news promoting a positive image of Hispanics.

Responsibility

The Hispanic community has responsibility for its image and presence in the media. Organized efforts led by local community-based groups and leaders to work with the media can improve the current relationship between the media and Hispanic community.

The media itself has a responsibility to project a realistic view of society, as well as of particular ethnic communities. The media's power structure must create opportunities for advancement and promotion of Hispanics in the media, in addition to promoting a policy of covering news about Hispanics and the Hispanic community.

Hispanics in the media have a responsibility to ensure that positive Hispanic images are projected; Hispanic professionals are promoted; the Hispanic community is served; and to act as role models to Hispanic youth.

Media Goals

Identify Hispanic media persons to become role models for the Hispanic community and its youth.

Coordinate recruiting efforts of Hispanic youth to increase the numbers of qualified Hispanics in the media.

Revitalize the Community Affairs Seminars educating the Hispanic community about how to better utilize the media.

Develop a "Who's Who" Hispanic Resource Directory that includes names and phone numbers of Hispanics in all areas of expertise.

Develop a constructive working relationship between the Hispanic community and the media to promote positive media coverage.

Achieve equal representation across all levels of employment of Hispanics in the media by 1990.

Establish community networks to create the exchange of information, expertise, and resources.

Create a partnership between Hispanics in the media and the Hispanic community at large to insure media accountability for program contents, hiring practices and other issues related to Hispanics.

BUILDING ACCOUNTABILITY

A reading of the summaries of each of the major components demonstrates that the Hispanic community perceives itself as a key player in promoting change. Change will only occur if our community takes action—NOW.

This Agenda is only the beginning. Action committees will be created to develop strategies to achieve our stated goals. No one has more invested in the success of this Agenda than the Hispanic Community.

The community at large and the Hispanic community must now begin to build bridges to open up opportunities for greater involvement of Hispanics in decision-making positions. It is through this open process that we will begin to accept our interdependence on each other to obtain a better quality of life for all of Colorado's people. This Hispanic leadership is eager and willing to address the issues identified in this report to usher in a new dawn for Colorado's Hispanics. We move forward, not forgetting the past, but building on it, to achieve the goals we have developed that will secure a better future for Hispanics and Colorado.

STRATEGIC APPROACH AND CRITERIA

The following is a standard set of criteria we used to provide an organized approach to identifying goals and objectives, developing plans and establishing time frames for achievement of this component of the Hispanic Agenda.

Goals are defined as our long-term vision of what we want the Hispanic Community to achieve. Objectives can be thought of as accomplishments required prior to achieving the established goals.

Task 1: Identify the key issues, needs and problems in your specific socioeconomic area.

Recommended criteria:

A. How do these issues, needs and problems specifically impact Hispanics?

B. How does this situation compare to the total population?

C. What are the current issues and/or barriers that hinder success?

D. How should these issues/barriers be "prioritized"?

Task 2: Identify who has the ultimate responsibility in this socioeconomic area.

Recommended Criteria:

A. Who are the individuals, organizations, agencies and groups responsible for addressing this socioeconomic area?

B. What is their relative role?

C. How successful are they in addressing this area?

Task 3: Provide recommendations, including goals and objectives that will positively impact the issues identified in Task 1.

Recommended Criteria:

A. What are the goals/objectives in the short-term (one-three years), 5 years, 10 years?

B. What specific policies, do you suggest to achieve realistic, clear and measurable objectives?

C. Should the roles of the current key players (identified in Task 2) be altered? If so, how?

D. Who else should be involved in addressing this area?

E. Is public/private sector cooperation necessary to impact this area? If so, in what specific form?

F. How should the achievement of these goals and objectives be evaluated and measured?

Task 4: Identify the interrelationships of your suggested recommendations with the other components of the Hispanic Agenda.

THE NEW INTERNATIONAL FINANCIAL SERVICES CENTER IN DUBLIN

Mr. KENNEDY. Mr. President, I wish to draw the attention of my colleagues to the ambitious plans of the Government of Ireland to build an International Financial Services Center, covering an area over 1 million square feet, and projected to cost $400 million, at the Customs House dock site on the north bank of the River Liffey in Dublin.

Dedicated to strengthening Ireland's economic contacts around the globe, the new center will make Dublin a vital hub of economic activity. Designed to be a focal point for business, commerce, and tourism, the Customs House Center will develop a new Irish financial services industry—one which will be able to compete internationally by use of advanced telecommunications technology. Already, these plans for new financial services have sparked the interest and enthusiasm of the American business community. In fact, several American banking institutions have indicated they wish to be major participants in the endeavor.

It is no secret that Ireland has faced severe difficulties during the economic recessions engendered by the world's two major oil crises. The attempts by successive Irish Governments to maintain the standards of living and services enjoyed by the Irish people resulted in the imposition of a great strain on the budget. The new Irish Government elected last February has taken disciplined and energetic measures to restore balance in the budget and has reiterated and renewed Ireland's commitment to export-led growth. Already there are several very positive indications that these corrective measures are bearing fruit. Public borrowing has been contained, inflation is at its lowest level in 20 years, and in the first half of this year, Ireland has enjoyed its best-ever export figures. A record Irish trade surplus is being forecast for 1987.

These optimistic indicators do not alter the fact that Ireland is experiencing difficulties in providing jobs and livelihoods for all its people, especially for the youth who make up a large proportion of the population. It would be a tragedy if, after Ireland had invested so much in its youth and especially in education throughout the 1960's and 1970's, the country were to see the cream of its highly educated graduates forced to seek a living and a future outside their own country in the 1980's.

That is a major reason why the Irish Government has decided to establish this International Financial Services Center, which will provide as many as 7,500 jobs, will open new opportunities for young Irish men and women to use their talents, to practice their hard-

earned technological skills and to demonstrate their initiative and enterprise for the benefit of their own country. It was the Irish people who made the initial investment and effort to produce a technologically advanced work force, and it is only right that the Irish people should reap the eventual rewards of this investment.

The Irish Government's remarkable initiative deserves encouragement by the United States. It offers a real possibility for a resurgence of hope and opportunity in a land that has given much to America. Over the centuries, Ireland's greatest contribution to the world has been its people. Throughout our history, the United States has been enriched by the contributions of Irish Americans, and America has not forgotten its Irish roots. Since the 1960's, American business leaders and industrialists have invested much time and money in establishing plants and in developing industries in Ireland.

America's involvement has been fruitful, productive, and beneficial to both countries. It shows that Ireland, the Irish people, and the Irish work force have much to offer American investors and corporations. It also shows that America has the ability and the willingness to help an old friend in a practical and economically realistic way.

This new project presents a fresh opportunity for America and Ireland to work together, and establish Dublin as a hub of the international financial services network. The Irish Government is especially interested in the participation of American firms in this enterprise, and such participation deserves to be in command—for this financial services initiative makes sense for Ireland and for the United States as well.

A CENTURY OF SERVICE TO THE CITIZENS OF OGDEN, UT

Mr. HATCH. Mr. President, Let me take this opportunity to congratulate the Ogden, UT, Chamber of Commerce on its 100th anniversary which it celebrates this year. This organization embodies the spirit of American business and community involvement.

The Ogden Area Chamber of Commerce was first organized in 1887, when Utah was still a territory. It is the oldest chamber of commerce in the State of Utah and the model for many similar organizations in the State.

The chamber has a distinguished history of service to the community of Ogden. It has been actively involved in the development of Ogden from the very beginning. While chamber records from the early days are few, we do know that in 1908 there were 198 members, and it is worth noting that three businesses still operating today were among those members then.

Throughout its 100 years of existence, the Ogden Area Chamber of Commerce has been involved in local and regional projects to improve business and community life in Ogden. Business has banded together more than once in the town of Ogden to initiate necessary positive change. In 1926, chamber president James Devine led a successful fight to keep the Internal Revenue Service from moving its center out of Ogden. Today, the IRS is a regional service center employing more than 3,000 Ogden area residents. During that same year, the chamber listed as major projects a new hotel, a new industrial business, a viaduct extension, a dam, and a railroad track extension.

Over the years the Ogden Chamber of Commerce has been directly involved in a number of local and regional projects to enhance commercial life in the area. Among those are the Golden Spike Livestock Coliseum, the National Guard Armory, the first Credit Bureau, two new high schools, and numerous others.

Mr. President, the Ogden Area Chamber of Commerce boasts a membership of 1,245, and the people who constitute this membership strive to improve the business life in Ogden. These Utahns are directly involved in encouraging a strong convention business, improving the image of Ogden, encouraging residents to shop locally, attracting industry to the area, and building a stronger membership.

Congratulations to the Ogden Area Chamber of Commerce on a century of service. I suspect this chamber will be around for another 100 years.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Ms. Emery, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session, the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations, which were referred to the Committee on Foreign Relations.

(The nominations received today are printed at the end of the Senate proceedings.)

MESSAGES FROM THE HOUSE

At 11:47 a.m., a message from the House of Representatives, delivered by Mr. Berry, one of its reading clerks, announced that the House has passed the following joint resolutions, without amendment:

S.J. Res. 22. Joint resolution to designate the period commencing September 21, 1987, and ending on September 27, 1987, as "National Historically Black Colleges Week"; and

S.J. Res. 135. Joint resolution to designate October 1987 as "Polish American Heritage Month".

At 4:14 p.m., a message from the House of Representatives, delivered by Mr. Berry, one of its reading clerks, announced that the House has passed the following bill, without amendment:

S. 1596. An act to extend the period for waivers of State eligibility requirements to enable certain States to qualify for child abuse and neglect assistance.

The Message also announced that the House has passed the following joint resolutions, in which it requests the concurrence of the Senate:

H.J. Res. 34. Joint resolution to authorize the President to issue a proclamation designating the week beginning on November 22, 1987, and ending November 30, 1987, as "National Family Week";

H.J. Res. 224. Joint resolution designating the week of October 18, 1987, through October 24, 1987, as "Benign Essential Blepharospasm Awareness Week";

H.J. Res. 255. Joint resolution designating the third week in May 1988 as "National Tourism Week";

H.J. Res. 331. Joint resolution designating October 1987 as "National Cosmetology Month"; and

H.J. Res. 338. Joint resolution designating October 15, 1987, as "National Safety Belt Use Day".

ENROLLED BILL AND JOINT RESOLUTIONS SIGNED

At 7:08 p.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the Speaker has signed the following enrolled bill and joint resolutions:

S. 1596. An act to extend the period for waivers of State eligibility requirements to enable certain States to qualify for child abuses and neglect assistance;

S.J. Res. 22. Joint resolution to designate the period commencing September 21, 1987, and ending on September 27, 1987, as "National Historically Black Colleges Week"; and

S.J. Res. 135. Joint resolution to designate October 1987 as "Polish American Heritage Month".

The enrolled bill and joint resolutions were subsequently signed by the President pro tempore (Mr. STENNIS).

MEASURES REFERRED

The following joint resolutions were read the first and second times by unanimous consent, and referred as indicated:

H.J. Res. 34. Joint resolution to authorize the President to issue a proclamation designating the week beginning on November 22, 1987, and ending November 30, 1987, as "National Family Week"; to the Committee on the Judiciary.

H.J. Res. 255. Joint resolution designating the third week in May as "National Tourism Week"; to the Committee on the Judiciary.

H.J. Res. 331. Joint resolution designating October 1987 as "National Cosmetology Month"; to the Committee on the Judiciary.

H.J. Res. 338. Joint resolution designating October 15, 1987 as "National Safety Belt Use Day"; to the Committee on the Judiciary.

MEASURES PLACED ON THE CALENDAR

The following joint resolution was read the first and second times by unanimous consent, and placed on the calendar:

H.J. Res. 224. Joint resolution designating the week of October 18, 1987, through October 24, 1987, as "Benign Essential Blepharospasm Awareness Week".

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. BUMPERS, from the Committee on Appropriations, with amendments:

H.R. 2714: A bill making appropriations for the Legislative Branch for the fiscal year ending September 30, 1988, and for other purposes (Rept. No. 100-158).

By Mr. JOHNSTON, from the Committee on Appropriations, with amendments:

H.R. 2700: A bill making appropriations for energy and water development for the fiscal year ending September 30, 1988, and for other purposes (Rept. No. 100-159).

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. HOLLINGS, from the Committee on Commerce, Science, and Transportation:

C. William Verity, Jr., of Ohio, to be Secretary of Commerce.

(The above nomination was reported with the recommendation that it be confirmed, subject to the nonimee's commitment to repond to request to appear and testify before any duly constituted committee of the Senate.)

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. GARN (for himself and Mr. HATCH) (by request):

S. 1687. A bill to correct historical and geographical oversights in the establishment and development of the Utah component of the Confederated Tribes of the Goshute Reservation, to unify the land base of the Goshute Reservation, to simply the boundaries of the Goshute Reservation, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. CHILES:

S. 1688. A bill to allow the obsolete submarine U.S.S. *Turbot* to be transferred to Dade County, FL; to the Committee on Armed Services.

By Mr. EXON (for himself and Mr. KARNES):

S. 1689. A bill to amend section 127 of title 23, U.S. Code (relating to vehicle weight), to permit the operation of vehicles in the State of Nebraska which could be lawfully operated within such State on May 1, 1982; to the Committee on Environment and Public Works.

By Mr. CONRAD:

S. 1690. A bill to amend the Historic Sites, Buildings, and Antiquities Act of 1935, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. CRANSTON (for himself and Mr. MURKOWSKI):

S. 1691. A bill to provide interim extensions of collection of the Veterans' Administration housing loan fee and of the formula for determining whether, upon foreclosure, the Veterans' Administration shall acquire the property securing a guaranteed loan; by unanimous consent, placed on the calendar.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. HELMS:

S. Con. Res. 73. A concurrent resolution calling on the President to place the Chinese human rights situation on the agenda of the U.N. Commission on Human Rights; to the Committee on Foreign Relations.

S. Con. Res. 74. A concurrent resolution calling on the President to retaliate against the expulsion of Western journalists from China; to the Committee on Foreign Relations.

S. Con. Res. 75. A concurrent resolution calling for the release of Yang Wei; to the Committee on Foreign Relations.

By Mr. INOUYE (for himself, Mr. EVANS, Mr. DECONCINI, Mr. BURDICK, Mr. MCCAIN, Mr. ADAMS, Mr. BOREN, Mr. CONRAD, Mr. CRANSTON, Mr. D'AMATO, Mr. DOLE, Mr. FORD, Mr. FOWLER, Mr. LEVIN, Mr. PELL, Mr. PRYOR, Mr. REID, Mr. RIEGLE, and Mr. STAFFORD):

S. Con. Res. 76. A concurrent resolution to acknowledge the contribution of the Iroquois Confederacy of Nations to the Development of the United States Constitution and to reaffirm the continuing government-to-government relationship between Indian tribes and the United States established in the Constitution; to the Select Committee on Indian Affairs.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. GARN (for himself and Mr. HATCH) (by request):

S. 1687. A bill to correct historical and geographic oversights in the establishment and development of the Utah component of the Confederate Tribes of the Goshute Reservation, to unify the land base on the Goshute Reservation, to simplify the boundaries of the Goshute Reservation, and for other purposes; to the Committee on Energy and Natural Resources.

MODIFICATIONS TO GOSHUTE INDIAN RESERVATION

● Mr. GARN. Mr. President, I am pleased to introduce this legislation with Senator HATCH which is designed to clarify and correct numerous matters affecting the status of the land of the Confederated Tribes of the Goshute Reservation, which lies along the west-central border of Utah. I introduced virtually the same bill at the end of the last term, but time constraints made passage impossible. I am optimistic that the Senate will be able to consider this matter and act favorably on it this year.

Since the creation of its reservation over 80 years ago, the small, 400 member Goshute Tribe has been plagued by problems relating to its reservation boundaries.

Most obvious of all of these problems is a strip of land approximately one-quarter mile wide and 8 miles long which cuts through the middle of the reservation, but does not belong to the tribe. This strip resulted from an error in the Executive order legal descriptions originally establishing the reservation. Technically, the strip is now held by the United States as a part of the Bureau of Land Management inventory. This bill will change the status of the title so that the United States will hold it in trust as a part of the Goshute Reservation.

Among the other provisions of the bill are sections which will place the tribal cemetery—now owned privately by the tribe—in trust status along with surrounding BLM land. Other sections will combine surface and subsurface interests where such are now split between tribal and Federal ownership.

I believe that this bill is noncontroversial and will meet with the support of the tribe, the non-Indians in the area, and affected Government agencies. Last year, my staff met with members of the tribal government and with members of the non-Indian community. Their concerns and interests have been carefully noted and are reflected in the draft of the bill which I introduce today. Through this process of gathering and evaluating comments from the public, we have been able to eliminate the possibility of local objections to the bill.

In addition, we have worked closely with representatives of the Department of the Interior in the Bureau of Indian Affairs and the Bureau of Land Management and have accepted their suggestions to improve the bill. We have also incorporated the suggestions of the representatives from the interested departments of the State of Utah.

I hope that this bill will see prompt action by the Senate to make passage possible this year.

Mr. President, I ask unanimous consent that a memorandum in support of the legislation and a section-by-section analysis be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

MEMORANDUM IN EXPLANATION AND SUPPORT OF GOSHUTE RESERVATION IMPROVEMENT LEGISLATION

INTRODUCTION

The main body of the Goshute Indians resides on an arid and remote 95,000-acre reservation which straddles the Utah-Nevada border, approximately 40 miles south of the city of Wendover. This small tribe of about 400 members has occupied the lands in this general area since time immemorial. After the creation of their reservation, however, the members of the tribe have been beset by boundary problems which plague the administration of tribal affairs on their lands.

A review of the history of the creation of the various components of the Goshute Indian Reservation has revealed a number of problems in the historical and geographical development of the reservation. The proposed legislation has been introduced in an effort to cure many of these problems and to simplify and streamline the boundaries of the reservation.

In recent years, Congress has passed a number of acts to simplify, unify and otherwise improve the boundaries of other existing Indian reservations. See, for example, the Acts codified in the following sections: 25 U.S.C. §§ 463-463c (Papago Indian Reservation), 25 U.S.C. §§ 463d-g (Umatilla Indian Reservation), 25 U.S.C. §§ 459-465 (general), 25 U.S.C. § 465a (Klamath Tribe), 25 U.S.C. § 467 (general), 25 U.S.C. § 487 (Spokane Indian Reservation), 25 U.S.C. § 501 (Yakima Indians), 25 U.S.C. §§ 610-610e (Swinomish Tribe), and 25 U.S.C. §§ 621-624 (Pueblo and Canoncito Navajo Indians). *See also* F. Cohen, *Handbook of Federal Indian Law*, pp. 477-480 (1982 ed.). The proposed Goshute reservation improvement legislation is similar in purpose to these acts and includes much of the legislative language which has become standard in such acts.

SECTION BY SECTION ANALYSIS

SECTION 1

President Wilson created the first small Goshute Indian Reservation by means of an executive order in 1914.

Current federal Indian law holds that presidential exeuctive orders which created reservations do not in and of themselves create property rights within the meaning of the Fifth Amendment in the Indian occupants of those reservations. The Goshute Tribe now desires Congress to officially recognize President Wilson's executive order of 1914 and thereby vest the Tribe with Fifth Amendment property rights in the 1914 reservation In Section 1 of the bill, Congress expressly recognizes and confirms the title of the Goshute Tribe to the reservation created by President Wilson's Executive Order. The section also specifies the effective date for determining water rights and priorities for the entire reservation to be the same as that of the respective executive orders (or such earlier dates as may be indicated by any applicable order or law).

SECTION 2

Section 2 guarantees third parties all valid rights they may have in any of the lands affected by this bill. This section also covers implementation matters such as transition of responsibility for leases, improvements, and so forth. The section also provides for the Secretary of the Interior to review the validity of all mining claims existing on the reservation, and the section further delineates the rights attendant with any valid claim.

SECTION 3

Subsection (a). When President Wilson created the first Goshute Indian Reservation in 1914, his executive order did not extend the western boundaries of this "Utah" reservation all the way to the Utah-Nevada state line. This omission or oversight left a strip of land about one-quarter mile wide and eight miles long between the western boundary of the reservation and the Utah-Nevada state line.

In 1938, Congress created a second small reservation for the Goshutes in east central Nevada. In doing so, Congress extended the eastern boundary of this 1938 reservation all the way east to the Nevada-Utah state line. This left the Utah and Nevada reservations or the Utah and Nevada "halves" of the "one" reservation separated by the thin strip of federal but non-Indian land on the Utah side of the state line. The lands in this strip consist of 1,753.51 acres of BLM land and an enclave of some 320 acres of private land.

The Goshute Indian Tribe believes the United States always intended that both the eastern (Utah) and western (Nevada) sides of the Goshute reservation be physically joined and that the historical accident which resulted in the omission of this small strip from the reservation in 1914 and which prevented the unification of the reservation lands in 1938 can and should be remedied. Subsection 3(a) provides for the addition of the BLM lands in this "Goshute Strip" to the rest of the reservation. The private lands are not affected.

Subsection (b). In 1921, the United States, pursuant to the General Allotment Act, alloted 160 acres of the 1914 Executive Order Reservation to the heirs of Pon Dugan, a Goshute Indian. A few years later, the Department of the Interior discovered that the land it had allotted Dugan included various agency buildings. The Department subsequently arranged to re-acquire the acreage upon which the buildings stood, and, accordingly, bought back half or 80 acres of the original allotment acreage. This reconveyance was finalized in 1926. Unfortunately, none of the legal documents which effectuated this reconveyance indicates that the United States took these 80 acres in trust for the Goshute Indians. Thus, these 80 acres right in the middle of the reservation are in a status akin to the "Goshute strip"—federal but not reservation land. The purpose of Section 3 is to correct this situation.

Subsection 3(b) provides for the addition of this small parcel of federal but non-Indian land within the 1914 Executive Order Reservation area to the Goshute reservation. (The remaining acreage of the original allotment is apparently still in the hands of the heirs of Pon Dugan; the bill does not affect these 80 acres.)

Subsection (c). Since the creation of the first Goshute reservation in 1914 and pursuant to authority contained in the Indian Reorganization Act, 25 U.S.C. § 461m, et. seq., the United States has acquired several hundreds of acres within and outside of the boundaries of the 1914 and 1938 reservations which it holds in trust for the Goshute Indians. The government concentrated its efforts in acquiring lands for the Tribe in an area approximately 6 miles north of the Utah half of the reservation and 4 miles east of the Nevada half of the reservation. This area now consists of approximately 1,440 acres of land. In recent years, the Tribe has constructed various buildings, a community center with a gymnasium, and a steel welding plant on this acreage. The area has become known as the "lower" (in elevation) or "headquarters" area of the reservation.

The Indian Reorganization Act, Section 7 (25 U.S.C. § 467), reads in part: The Secretary of the Interior is hereby authorized to proclaim new Indian reservations on lands acquired pursuant to any authority conferred by . . . this title, *or to add such lands to existing reservations.* [Emphasis added.]

This section has been interpreted and applied to the effect that unless the Secretary takes some affirmative action to officially add lands acquired pursuant to the Act to a reservation, the lands so acquired, even though they may be held in trust, are not officially part of existing reservations.

The Secretary has never taken any action to officially add the above mentioned lands which are held in trust for the Goshute Indians to the Goshute Indian Reservation. Thus, these IRA lands, although within or adjacent to the reservation and held by the United States in trust for the Goshute Indians, are not technically part of the reservation. The purpose of this subsection is to remedy this oversight or omission. In this subsection, Congress officially declares the lands described therein to be part of the Goshute Indian Reservation.

Subsection (d). From time to time and for various reasons, the United States in its own capacity and not in trust for the Goshute Indians, has reserved various subsurface resources in the Ibapah area.

Unfortunately, whenever the United States has taken the subsurface of such lands in trust, it did not always take the subsurface rights previously reserved in such lands by the United States in trust. The result has been that in many cases, the surface and subsurface estates of such lands are split, the surface being held in trust, the subsurfaces being held by the United States but not in trust. This subsection will unify the surface and subsurface estates and place them in trust for the tribe as a part of the reservation. Presently, there are no mineral resources known to exist on the lands in question.

Subsections (e) and (f). Pursuant to the provisions of the Cemetery Act of March 1, 1907, 43 U.S.C. § 682, the Goshute Tribe acquired a cemetery, consisting of 5 acres, in Section 4, Township 10 South, Range 19 West. These lands held by the Goshute Tribe as a private entity (not held by the United States in trust), are not now a part of the reservation. Subsection (e) calls for the addition of this 5 acre cemetery (and any other land which the Goshute Tribe may own in its own right as a private party) to the reservation.

In order to provide unrestricted access to the Goshute Tribal Cemetery and to further streamline reservation boundaries, Subsection (f) provides for the addition of the acreage in Section 4, Township 10 South, Range 19 West, which surrounds the cemetery (plus the northwest ¼ of the northwest ¼ of Section 9) to the headquarters part of the reservation.

Subsection (g). This subsection directs the Secretary of the Interior to prepare and publish a legal description of the subject lands, correct any technical errors in legal descriptions, and prepare a map depicting the lands added to the reservation.

SECTION 4

In 1896, when Utah became a state, the federal government sought to alleviate the consequences of the federal government's control of large parts of the state (the main

consequence being there was proportionately less land in private ownership subject to taxation) by granting the State of Utah four sections of each 36 section township; the idea being that by leasing such sections, the State could generate revenues to help support the public schools. Accordingly, the Enabling Act that permitted statehood provided:

"That upon . . . admission . . . Sections numbered 2, 16, 32, and 36 in every Township of said proposed state . . . are hereby granted . . . for the support of common schools."

Pursuant to this Act, the State of Utah presently holds several sections of land within, adjacent to or in close proximity to the Goshute Reservation.

Section 4 simply provides that if any enclaves of state land (surface or subsurface) within the present boundaries of the Goshute reservation ever become federal land pursuant to a federal land—state land exchange such as that contemplated by PROJECT BOLD, they will automatically become reservation lands. The Section merely provides that if a certain contingency happens, then the Tribe would not be faced with the existence of what currently plagues the Tribe, that is, enclaves of federal but non-reservation land within the reservation. This section provides that in the case such state land ever becomes "federalized" such newly formed federal enclaves will be automatically added to the reservation.

SECTION 5

Section 5 allows the Secretary of the Interior to acquire by donation, exchange, or purchase other lands in close proximity to the reservation. The advice and consent of the tribe is required in any such transaction with the following limitations: only tribal funds are to be used and any exchange is to be of equal value.

SECTION 6

This Section requires the Secretary of the Interior to consider the needs and wishes of the tribe in the event the United States intends to divest itself of approximately 640 acres of land which borders the tribal headquarters area.

SECTION 7

Section 7 extinguishes the reserved right of the United States to construct ditches and canals on the lands described in the act and any other lands acquired for the tribe in the future.

SECTION 8

This Section contains "boiler-plate" language concerning the application of the laws of the United States relating to Indian land.

SECTIONS 9 AND 10

Section 9 sets forth definitions of the terms "reservation," "Secretary," and "Tribe." Section 10 contains the legal descriptions of the lands referred to in the foregoing sections.

CONCLUSION

The thrust of this proposed legislation is to perform several tasks of a "housekeeping" nature, to correct certain historical oversights in the creation and development of the reservation, and to simplify and streamline the boundaries of the reservation.

In sum, the proposal calls for the immediate attention of approximately 2,198.51 acres of land to the reservation. All of this land was at one time a part of the aboriginal area of the Goshutes. In 1977 the tribe concluded a lengthy case against the United States under the Indian Claims Act. That case determined that the government had taken approximately seven million acres of tribal land in the late 1800's. Under that case, the tribe was compensated for the taking at a rate of approximately one dollar per acre. An offset was made from the total due the Goshutes for the reservation areas that were granted back to the tribe. It appears from the calculations of those areas, however, that the "strip" running through the middle of the reservation was included in determining the offset even though the lands in the strip were not then included in the reservation. Consequently, the return of this land to the tribe as a part of their reservation should not have any monetary implications because the value of the strip has already been included in the value of the offset deducted from the claims judgment.

The bill has been the subject of much correspondence, meetings, informal hearings, and more than four years of work by the Goshute Tribe. The Goshute Tribe believes that the present form of the bill resolves in a satisfactory way all the questions and concerns which have been raised by federal and state government agencies and local non-Indians neighboring the subject area. It is anticipated that the bill will have no budgetary, regulatory, or paperwork impact.●

By Mr. CHILES:

S. 1688. A bill to allow the obsolete submarine U.S.S. *Turbot* to be transferred to Dade County, FL; to the Committee on Armed Services.

TRANSFER OF "TURBOT" SUBMARINE TO DADE COUNTY

● Mr. CHILES. Mr. President, today I am introducing a bill to expedite transfer of the U.S. Navy's obsolete *Turbot* submarine to Dade County, FL for use in their Artificial Reef Program.

The county has agreed to all of the Navy's terms for the transfer, including liability for all costs associated with the transfer. I know of no opposition to this action.

The Navy will be soon forwarding to Congress notice of the intended donation of the *Turbot* as required by title 10 of United States Code 7308. This code requires that the proposal remain before Congress for 60 continuous days.

Mr. President, the timing of this transfer is critical. It must take place before the windy, winter months to ensure a smooth move operation. Congressman PEPPER is offering an identical measure today, and I am hopeful that we can secure timely action on this bill.●

By Mr. EXON (for himself and Mr. KARNES):

S. 1689. A bill to amend section 127 of title 23, United States Code (relating to vehicle weight), to permit the operation of vehicles in the State of Nebraska which could be lawfully operated within such State on May 1, 1982; to the Committee on Environment and Public Works.

VEHICLE WEIGHTS WITHIN THE STATE OF NEBRASKA

Mr. EXON. Mr. President, I am introducing legislation today for myself and for Senator KARNES to correct a problem that has caused difficulty for the State of Nebraska, the Nebraska Department of Roads, and the trucking industry.

The issue involves the interpretation of current Federal law on the authority of Nebraska to set weight limits above 80,000 pounds on its interstate system. The State of Nebraska Department of Roads has allowed certain weight limits of 95,000 pounds on its interstate system only if a vehicle has sufficient axles and sufficient axle spacing to conform to the bridge formula set out in law. The raising of the Nebraska interstate weight limits benefited the farming, construction, and trucking industries of Nebraska at no cost to the highway system based on the opinion and studies of the Nebraska Department of Roads.

This conclusion evidently is not unique to Nebraska. Other Midwestern States allow weight limits greater than 95,000 pounds, including South Dakota, Wyoming, and Michigan.

My bill would amend the United States Code to clarify the "grandfather rights" under current Federal law of the Nebraska Department of Roads to permit higher weight limits and place Nebraska on the same footing as other States which have higher limits and are not being threatened with loss of their Federal highway funds. The Federal Department of Transportation is attempting to unfairly penalize Nebraska in this case.

Mr. President, this is an important bill and a fair and equitable bill for Nebraska. I am pleased to have the original cosponsorship of my colleague, Senator KARNES, in this endeavor. I look forward to working with my colleages on this issue.

By Mr. CRANSTON (for himself and Mr. MURKOWSKI):

S. 1691. A bill to provide interim extensions of collection of the Veterans' Administration housing loan fee and of the formula for determining whether, upon forclosure, the Veterans' Administration shall acquire the property securing a guaranteed loan; placed on the calendar by unanimous consent.

HOME LOAN PROGRAM PROVISIONS

Mr. CRANSTON. Mr. President, as chairman of the Committee on Veterans' Affairs, I, together with the committee's distinguished ranking minority member [Mr. MURKOWSKI], have today introduced S. 1691, a bill to provide 3-month, interim extensions of two provisions relating to the Veterans' Administration's home loan guaranty program which would otherwise expire on September 30, 1987.

First, our bill would extend through December 31, 1987, the general requirement in section 1829 of title 38, United States Code, for the collection of a 1-percent fee on those receiving a housing loan guaranteed, insured, or made by the Veterans' Administration.

Second, our bill would extend for the same 3-month period the provisions of section 1816(c) of title 38 establishing a statutory formula—known as the "no-bid formula"—for determining whether the VA shall, or shall not, acquire at a liquidation sale the property securing a VA-guaranteed loan that is in default.

These provisions were enacted in section 2512(a) of the Deficit Reduction Act of 1984 (Public Law 98-369) and, as noted, are scheduled to expire on September 30.

On August 3, 1987, the House of Representatives passed in sections 3 and 6 of H.R. 2672 2-year extensions of the fee-collection requirement and, with certain revisions, the formula, respectively. Likewise, on July 30, 1987, the Senate Committee on Veterans' Affairs ordered reported in S. 9, the proposed "Omnibus Veterans, Benefits and Services Act of 1987," a 2-year extension of the fee and 1-year extension of the formula with revisions different from those in the House bill. It is clear that there is insufficient time between now and September 30 to obtain Senate passage of the provisions in S. 9, resolve the differences with the House, and enact an extension in the context of those bills.

The administration strongly supports extensions of, indeed making permanent, the collection of a VA loan fee and the "no-bid" formula.

I would note that the extension of the fee is assumed in baseline figures underlying the fiscal year 1988 congressional budget (H. Con. Res. 93). Moreover, any hiatus in the collection of the fee would both be inequitable to those required to pay the fee before and after the hiatus and would jeopardize the solvency of the VA's Loan Guaranty Revolving Fund and create a need for additional appropriations—about $25 million for each month the fee is not collected—to pay the claims of the holders of defaulted VA-guaranteed loans.

Mr. President, the formula governing VA acquisition of properties securing loans being foreclosed has been in effect for 3 years and provides principles, well-known throughout the housing and banking industries, by which the VA must abide. I believe that it is important to extend the termination date of this current "no-bid" formula in order to allay concerns among mortgage bankers and various other concerned parties that the rules governing VA acquisitions may be changed during the period between September 30 and the enactment of legislation to extend and, possibly, revise the formula.

Mr. President, I am seeking to put this bill immediately on the calendar today and will seek Senate action tomorrow on this interim legislation. I wish to express my gratitude to Senator MURKOWSKI for his support and cooperation in this effort. We are both hopeful that our good friends and counterparts in the House of Representatives, House Veterans' Affairs Committee Chairman "SONNY" MONTGOMERY and ranking minority member GERALD SOLOMON, will find this bill acceptable and obtain House action sending it to the President for signature in a timely manner.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD at this point.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1691

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) notwithstanding section 2512(c) of the Deficit Reduction Act of 1984 (Public Law 98-369), the provisions of section 1816(c) of title 38, United States Code, shall continue in effect through December 31, 1987.

(b) Notwithstanding subsection (c) of section 1829 of such title, fees shall be collected under such section with respect to loans closed during the period beginning October 1, 1987, and ending December 31, 1987.

Mr. MURKOWSKI. Mr. President, I am pleased to join with my colleague from California in introducing legislation which would ensure the continued financial integrity of the Veterans' Administration Home Loan Guaranty Program.

No veterans' program has a wider impact on American society and the American economy than the Veterans' Home Loan Guaranty Program. Since 1944, the mortgages used to purchase over 12 million homes have been guaranteed by the VA. Through this program, millions of veterans have gained the stability and economic benefits that flow from home ownership. Millions of families have started matured in a stable secure environment.

It is not without reason that home ownership is widely defined as "the American Dream."

It is not without reason that the Congress has acted to ensure the benefits of this "American Dream" are available to those who served our Nation in uniform.

Mr. President, the impact of the Veterans' Home Loan Guaranty Program extends far beyond the ranks of America's veterans.

This program benefits those who build the homes; those who supply the builders; those who sell the land; those who finance the sales; those who broker the sales, and beyond.

All of these beneficiaries, and therefore the entire Nation, have a stake in the continued economic health of the Veterans' Home Loan Guaranty Program. The economic health of the program is in turn dependent upon measures the Congress has enacted to protect the financial integrity of the loan guaranty revolving fund. The authority for two of these measures, the 1-percent loan origination fee and the so-called no bid formula, will expire at the end of this month. The legislation we are introducing today would extend this authority for 90 days.

Mr. President, this fall, both bodies of Congress will have the opportunity to consider legislation which would reform and improve this critical veterans' program. The temporary legislation we are today introducing is needed to ensure the program will continue to operate in a stable and financially sound manner until the Congress has time to consider more comprehensive reforms.

Failure to adopt this legislation will deprive the loan guaranty revolving fund of the income from the 1-percent loan fee now paid by homeowners who benefit from this program.

Mr. President, this event would quickly exhaust the loan guaranty revolving fund and jeopardize the program's continuation. Congress would be forced to either provide additional funds by means of appropriations, or allow the Veterans' Home Loan Guaranty Program to cease operation. At a time of enormous fiscal constraints, we can no longer be assured that additional appropriations in excess of $300 million would be available.

For these reasons I urge my colleagues to join me in supporting this legislation which will allow the current situation to continue for 90 days until we have more comprehensive legislation before us.

ADDITIONAL COSPONSORS

S. 461

At the request of Mr. MITCHELL, the name of the Senator from Illinois [Mr. SIMON] was added as a cosponsor of S. 461, a bill to prohibit the implementation of certain regulations of the Secretary of Health and Human Services and the Secretary of Agriculture respecting irradiated foods, to amend the Federal Food, Drug, and Cosmetic Act to prescribe labels for irradiated food, and for other purposes.

S. 660

At the request of Mr. DURENBERGER, the name of the Senator from West Virginia [Mr. ROCKEFELLER] was added as a cosponsor of S. 660, a bill to create a fiscal safety net program for needy communities.

S. 936

At the request of Mr. DURENBERGER, the name of the Senator from California [Mr. WILSON] was added as a cosponsor of S. 936, a bill to amend title

XVIII of the Social Security Act to permit certain individuals with physical or mental impairments to continue Medicare coverage at their own expense.

S. 998

At the request of Mr. DECONCINI, the name of the Senator from New Jersey [Mr. LAUTENBERG] was added as a cosponsor of S. 998, a bill entitled the "Micro Enterprise Loans for the Poor Act."

S. 1019

At the request of Mr. RIEGLE, the name of the Senator from Oklahoma [Mr. BOREN] was added as a cosponsor of S. 1019, a bill to amend the Internal Revenue Code of 1986 to clarify the tax exempt treatment of self-insured workers' compensation funds.

S. 1220

At the request of Mr. KENNEDY, the name of the Senator from New Jersey [Mr. LAUTENBERG] was added as a cosponsor of S. 1220, a bill to amend the Public Health Service Act to provide for a comprehensive program of education, information, risk reduction, training, prevention, treatment, care, and research concerning acquired immunodeficiency syndrome.

S. 1393

At the request of Mr. HEINZ, the name of the Senator from Colorado [Mr. ARMSTRONG] was added as a cosponsor of S. 1393, a bill to amend title 39, United States Code, to designate as nonmailable matter any private solicitation which is offered in terms expressing or implying that the offeror of the solicitation is, or is affiliated with, certain Federal agencies, unless such solicitation contains conspicuous notice that the Government is not making such solicitation, and for other purposes.

S. 1440

At the request of Mr. EVANS, the name of the Senator from Kansas [Mrs. KASSEBAUM] was added as a cosponsor of S. 1440, a bill to provide consistency in the treatment of quality control review procedures and standards in the Aid to Families with Dependent Children, Medicaid, and Food Stamp Programs; to impose a temporary moratorium for the collection of penalties under such programs, and for other purposes.

S. 1483

At the request of Mr. HEINZ, the name of the Senator from Arizona [Mr. DECONCINI] was added as a cosponsor of S. 1483, a bill to reestablish food bank special nutrition projects, to establish food bank demonstration projects, and for other purposes.

S. 1489

At the request of Mr. MOYNIHAN, the name of the Senator from North Carolina [Mr. HELMS] was added as a cosponsor of S. 1489, a bill to amend section 67 of the Internal Revenue Code of 1986 to exempt certain publicly offered regulated investment companies from the disallowance of indirect deductions through pass thru entities.

S. 1522

At the request of Mr. RIEGLE, the names of the Senator from Alabama [Mr. SHELBY], and the Senator from Arkansas [Mr. BUMPERS] were added as cosponsors of S. 1522, a bill to amend the Internal Revenue Code of 1986 to extend through 1992 the period during which qualified mortgage bonds and mortgage certificates may be issued.

SENATE JOINT RESOLUTION 111

At the request of Mr. HEINZ, the name of the Senator from Georgia [Mr. FOWLER] was added as a cosponsor of Senate Joint Resolution 111, a joint resolution to designate each of the months of November 1987, and November 1988, as "National Hospice Month."

SENATE JOINT RESOLUTION 148

At the request of Mr. D'AMATO, the name of the Senator from Nevada [Mr. HECHT] was added as a cosponsor of Senate Joint Resolution 148, a joint resolution designating the week of September 20, 1987, through September 26, 1987, as "Emergency Medical Services Week."

SENATE JOINT RESOLUTION 184

At the request of Mr. RIEGLE, the names of the Senator from Florida [Mr. CHILES], the Senator from Virginia [Mr. WARNER], the Senator from Illinois [Mr. SIMON], the Senator from Idaho [Mr. SYMMS], the Senator from Virginia [Mr. TRIBLE], the Senator from North Dakota [Mr. CONRAD], the Senator from Arkansas [Mr. BUMPERS], the Senator from Utah [Mr. HATCH], the Senator from Wisconsin [Mr. PROXMIRE], the Senator from Ohio [Mr. METZENBAUM], the Senator from Maryland [Mr. SARBANES], the Senator from Rhode Island [Mr. CHAFEE], the Senator from Texas [Mr. BENTSEN], the Senator from North Dakota [Mr. BURDICK], the Senator from Wisconsin [Mr. KASTEN], the Senator from South Carolina [Mr. THURMOND], the Senator from Idaho [Mr. MCCLURE], the Senator from Washington [Mr. ADAMS], the Senator from California [Mr. WILSON], the Senator from Tennessee [Mr. GORE], the Senator from West Virginia [Mr. BYRD], and the Senator from Vermont [Mr. STAFFORD] were added as cosponsors of Senate Joint Resolution 184, a joint resolution designating October 15, 1987, as "National Safety Belt Use Day."

SENATE CONCURRENT RESOLUTION 15

At the request of Mr. HEFLIN, the name of the Senator from Wyoming [Mr. SIMPSON] was added as a cosponsor of Senate Concurrent Resolution 15, a concurrent resolution expressing the sense of the Congress that no major change in the payment methodology for physicians' services, including services furnished to hospital inpatients, under the Medicare Program should be made until reports required by the 99th Congress have been received and evaluated.

SENATE CONCURRENT RESOLUTION 23

At the request of Mr. CRANSTON, the name of the Senator from Delaware [Mr. BIDEN] was added as a cosponsor of Senate Concurrent Resolution 23, a concurrent resolution designating jazz as an American national treasure.

SENATE CONCURRENT RESOLUTION 32

At the request of Mr. GRASSLEY, the name of the Senator from Kansas [Mrs. KASSEBAUM] was added as a cosponsor of Senate Concurrent Resolution 32, a concurrent resolution to express the sense of Congress that volunteer work should be taken into account by employers in the consideration of applicants for employment and that provision should be made for a listing and description of volunteer work on employment application forms.

SENATE RESOLUTION 246

At the request of Mr. MOYNIHAN, the names of the Senator from Arkansas [Mr. PRYOR], the Senator from Texas [Mr. BENTSEN], the Senator from North Dakota [Mr. CONRAD], the Senator from Wisconsin [Mr. PROXMIRE], the Senator from Ohio [Mr. GLENN], the Senator from Tennessee [Mr. GORE], the Senator from South Carolina [Mr. HOLLINGS], the Senator from Mississippi [Mr. STENNIS], the Senator from North Carolina [Mr. SANFORD], and the Senator from Nebraska [Mr. EXON] were added as cosponsors of Senate Resolution 246, a resolution to honor Irving Berlin for the pleasure he has given to the American people through almost a century of his music.

AMENDMENT NO. 591

At the request of Mr. DANFORTH, the name of the Senator from Minnesota [Mr. BOSCHWITZ] was added as a cosponsor of amendment No. 591 intended to be proposed to S. 328, a bill to amend chapter 39, United States Code, to require the Federal Government to pay interest on overdue payments, and for other purposes.

SENATE CONCURRENT RESOLUTION 73—RELATING TO HUMAN RIGHTS ISSUES IN CHINA

Mr. HELMS submitted the following concurrent resolution; which was referred to the Committee on Foreign Relations:

S. CON. RES. 73

Whereas Mr. Liu De, Editor of the Jianan Literature and Art Journal has been imprisoned for 7 years by the Peoples Republic of China Ministry of State Security;

Whereas the principal charge against Mr. Liu was his advocacy of "democracy and freedom", for his native country;

Whereas Mr. Xue Deyun, a poet, has been arrested for the nonviolent expression of his

fundamental right to freedom of opinion, expression and demonstration;

Whereas Mr. Liu Binyan, Vice Chairman of the Chinese Writers Association has been dismissed form his position and has become the target of a public campaign of vilification and abuse;

Whereas the said Mr. Liu Binyan is best know to Chinese readers as an investigative reporter who uncovered abuses of power by local Communist Party secretaries, extortion, bribery, intimidation of intellectuals and persecution of ordinary people;

Whereas Mr. Liu Xinhu, director of the magazine "People's Literature" has been dismissed from his position for having advocated pluralism in literature;

Whereas Mr. Wang Ruowang, the former Deputy Editor of Peoples Daily, has been dismissed from his position and has become the subject of a public campaign of vilification and abuse;

Whereas the said Mr. Wang, a Communist Party member for 50 years, was accused of having said, "If I am not given freedom, I will fight for it";

Whereas Mr. Fang Lizhi, the Vice President of the University of Science and Technology at Hefei, Anhui, and one of China's leading scientists, has been dismissed from his position and has become the subject of a public campaign of vilification and abuse;

Whereas the said Mr. Fang has been accused of arguing that "the starting point of democratic ideology is from the lower levels of higher";

Whereas Mr. Guan Weiyan, the President of the University of Science and Technology at Hefei, Anhui, has been dismissed from his position for not having censored the said Mr. Fang;

Whereas Mr. Lu Jiaxi and Mr. Yan Dengsheng, the President and Vice President, respectively, of the Chinese National Academy of Sciences, have been dismissed from their positions for having advocated freedom of scientific inquiry;

Whereas Mr. Liu Zaifu, Director of the Institute of Literature at the Chinese Academy of Social Sciences has been purged and vilified for advocating freedom of expression in literature;

Whereas Mr. Wu Zuguang, a noted playwright, has been purged and is the subject of a public campaign of vilification and abuse;

Whereas Mr. Wang Ruoshui, former deputy chief editor of People's Daily has been purged for having advocated freedom of the press;

Whereas Mr. Su Shaozhi, Director of the Academy of Social Sciences Research Institute of Marxism-Leninism-Mao Zedong Thought has been dismissed from his position for having advocated freedom of expression in ideological debate;

Whereas Mr. Zhang Xianyang, Director of the Marxism-Leninism-Mao Zedong Thought Laboratory under the Chinese Academy of Social Sciences Research Institute of Marxism-Leninism-Mao Zedong Thought has been purged for having advocated freedom of expression in ideological debate;

Whereas Mr. Sun Changjiang, deputy chief editor of the Beijing Keji Bao has been purged for having advocated freedom of the press;

Whereas Mr. Yu Haocheng, editor of the Peoples' Publishing Company has been purged for allowing his company to print materials favorable to democracy;

Whereas Mr. Yang Wei, a 1983 graduate of the University of Arizona has been imprisoned and charged with unspecified counterrevolutionary activities by officials of the Shanghai Public Security Bureau;

Whereas the principal accusation against the said Mr. Yang is advocacy of political freedom in China;

Whereas Dr. Che Shaoli, Mr. Yang's wife and a student at Baylor University in Houston, Texas, has been refused information about her husband's whereabouts by Chinese authorities;

Whereas the treatment of Mr. Yang and his family is frightening to all Chinese students now studying in the West and meant to be so by Chinese authorities;

Whereas Mr. Zhu Houze, the Chief of Propaganda for the Chinese Communist Party has been dismissed from his position for advocating "democratic pluralism";

Whereas Mr. Wei Jing-sheng, one of the leaders of the Chinese "Democracy Wall" movement of 1978–80, has been transported to a strict regime labor camp in Qinghai Province;

Whereas Mr. Liang Jimen, Director of the Chinese State Family Planning Commission has admitted that coercion is still being used to force Chinese women to have abortions;

Whereas the Chinese Communist Party's Propaganda Department has assumed direct control of the heretofore independent Chinese Federation of Literary and Arts Circles;

Whereas a new office has been established directly under the Chinese State Council to tighten control and censorship of the press.

Whereas Mr. Song Muwen, Vice Director of the People's Republic of China State Media and publication Office has bragged that 10 million copies of 1,000 titles of books and periodicals have been suppressed in the first 5 months of 1987;

Whereas Chinese censors have suppressed 39 publications in the Province of Guangxi alone;

Whereas the Shenzhen Youth News in southern China has been ordered closed by officials of the Peoples Republic of China;

Whereas the scholarly journal DuShu ("Reading Books") has been suppressed for translating Western literature and philosophy;

Whereas the said Shenzhen Youth News was accused by Chinese officials of promoting Western democratic ideals;

Whereas the Shenzhen newspaper Special Zone Workers has been closed for having advocated Western democratic ideals;

Whereas the Shenzhen monthly Special Zone Literature has been closed for having advocated Western democratic ideals;

Whereas the Society newspaper of Shanghai has been ordered closed by officials of the Peoples Republic of China;

Whereas the Society newspaper of Shanghai was accused of advocating Western democratic ideals;

Whereas the Hubei Youth News in central China has been closed for having advocated Western democratic ideals and its reporters are under investigation by political authorities;

Whereas the Anhui Science Journal in eastern China has been closed for having advocated Western democratic ideals;

Whereas the Anhui Journal of Scientific News in eastern China has been closed for having advocated Western democratic values;

Whereas radical elements within the Chinese Communist Party are reported to be targeting the World Economic Herald of Shanghai, a newspaper that has published a wide variety of views over the past year;

Whereas the People's Republic of China is a member state of the United Nations;

Whereas the People's Republic of China has adopted the United Nations Charter and accepted its priniciples in authoritative declarations and resolutions including the Universal Declarations of Human Rights;

Whereas the activities of the People's Republic of China authorities described above violate such principles in the United Nations Charter as are presented in the Preamble (emphasizing fundamental human rights); Article 2 (2) (pledging all members to a good faith commitment to Charter obligations): Article 55(a)(b)(c) (promotion of human rights and fundamental freedoms); and Article 56 (pledge to carry out said principles);

Whereas the activities of the People's Republic of China authorities described above violate the basic standards found in the Universal Declaration of Human Rights via the Preamble (pledge of respect for human rights and fundamental freedoms); Article 2 (guarantee of all rights to every citizen of signatory member state); Article 3 (guarantee of life, liberty and security of the person); Article 7 (equal protection before the law); Article 8 (trial by competent tribunal); Article 9 (prohibition against arbitrary arrest or detention); Article 10 (fair public trial); Article 18 (freedom of thought and conscience); Article 19 (freedom of speech and expression); Article 20 (freedom of peaceful assemble and association); and Article 29 (limitation of state intrusion on individual rights);

Whereas the People's Republic of China by the action of its Government and Communist Party authorities violated Article 13(1)(b) (promoting international education and assisting human rights) of the United Nations Charter;

Whereas the People's Republic of China has violated the Universal Declaration of Human Rights in Article 26 (right to an education directed at full development of personality) and Article 27(1)(2) (right to participate in cultural life with protection of moral and material interests resulting from one's own intellectual labors);

Whereas cultural relations between the United States and the People's Republic were established by the United States-People's Republic of China Cultural Agreement signed in Washington on January 31, 1979;

Whereas under the terms of the said Cultural Agreement the People's Republic of China guaranteed the encouragement and facilitation of the exchange of information and cooperative programs (Articles I, II, and III);

Whereas exchanges of scholars and students between the United States and the People's Republic of China were established by the Understanding on the Exchange of Students and Scholars reached in Washington in October 1978 and the United States-People's Republic of China Agreement in Science and Technology signed in Washington January 31, 1979;

Whereas under the terms of the said agreement on the exchange of students and scholars, the People's Republic of China guaranteed a two-way scientific and scholarly exchange for students, graduate students and scholars, offering full study support and research opportunities for the purpose of improving contracts in science, technology and education;

Whereas under the terms of the said agreement on Science and Technology the People's Republic of China promised cooperation, exchange of information and docu-

mentation, joint research, contacts between scientific entities and cooperation among the scientific communities of each nation;

Whereas, the Government and Communist Party officials of the People's Republic of China are in violation of the aforesaid Cultural, Scientific and Technology and Exchange of Students and Scholars Agreements by the arrest and continued detention without trial of returned University of Arizona student Yang Wei;

Resolved by the Senate, (The House of Representatives concurring) that it is the sense of the Congress that the current urgent situation in human rights in the People's Republic of China should be placed on the agenda of the United Nations Commission on Human Rights at its next meeting in Geneva, Switzerland.

Be it further resolved that the Congress of the United States calls upon the government of the People's Republic of China to release Mr. Yang Wei.

Be it further resolved that until the human rights situation in the People's Republic of China clarifies, the United States Government should offer Chinese students studying in the United States participation in the Extended Voluntary Departure Program.

Be it further resolved that it is the sense of the Congress that the United States Government should reexamine its technology (including nuclear) and arms transfer policies towards the People's Republic of China.

SEC. 2. The Secretary of the Senate shall transmit a copy of this concurrent resolution to the chief of the diplomatic mission of the People's Republic of China to the United States.

SENATE CONCURRENT RESOLUTION 74—RELATING TO JOHN FISHER BURNS

Mr. HELMS submitted the following concurrent resolution; which was referred to the Committee on Foreign Relations:

S. CON. RES. 74

Whereas Mr. John Fisher Burns, a British subject and Beijing correspondent for the New York Times was accused of espionage by officials of the People's Republic of China Ministry of State Security;

Whereas the said espionage consisted of having photographed a 1,000 year old marble bridge;

Whereas Mr. Burns was expelled from China on July 23, 1986;

Whereas Mr. Lawrence MacDonald, an American citizen and Beijing correspondent for the Agency French Press was accused of espionage by officials of the People's Republic of China Ministry of State Security;

Whereas both Mr. MacDonald and Agency French Press formally denied the accusations of espionage;

Whereas the charges against Mr. MacDonald were totally unfounded and Mr. MacDonald had never transcended the standards of professional ethics;

Whereas Mr. Shuitsu Henmi, a Japanese citizen and Beijing correspondent for the Kyodo News Service was accused of espionage by officials of the People's Republic of China Ministry of State Security;

Whereas both Mr. Henmi and the Kyodo News Service formally denied the accusations of espionage;

Whereas Mr. Henmi was expelled from China on May 9, 1987;

Whereas these actions taken by the People's Republic of China Ministry of State Security were intended to intimidate both Chinese sources and Western Journalists;

Whereas the expulsion of Mr. MacDonald came in retaliation for legitimate broadcasting by the Voice of America, an agency of the United States Government;

Whereas press relations between the United States and the People's Republic of China were established by the United States-People's Republic of China Cultural Relations Agreement signed in Washington January 31, 1979;

Whereas Article II of the said agreement commits the Chinese Government to encourage and facilitate the development of contacts and exchanges between the two countries including news organizations;

Whereas the United States Information Agency is the lead agency on the said cultural agreement for the United States Government;

Whereas the expulsions of Mr. Burns and Mr. MacDonald were contrary to the spirit and intent of the said cultural agreement;

Whereas the expulsions of Mr. Burns and Mr. MacDonald were meant to discourage the development of contacts and exchanges between the two countries and, thus, specifically contrary to Article II of the said cultural agreement;

Whereas Article 19 of the Universal Declaration of Human Rights declares "Everyone has the right to freedom of opinion and expression; this right includes freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers";

Whereas the expulsions of Mr. Burns, Mr. MacDonald and Mr. Henmi from the People's Republic of China were intended to and had the effect of denying Chinese citizens rights guaranteed to them under Article 19 of the Universal Declaration of Human Rights;

Whereas Article 19 (2) of the International Covenant on Civil and Political Rights declares, "Everyone shall have the right to freedom of expression; this right shall include freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of his choice";

Whereas the expulsions of Mr. Burns, Mr. MacDonald and Mr. Henmi from the People's Republic of China were intended to and had the effect of denying Chinese citizens rights guaranteed to them under Article 19 of the International Convenant on Civil and Political Rights;

SENATE CONCURRENT RESOLUTION 75—RELATING TO YANG WEI

Mr. HELMS submitted the following concurrent resolution; which was referred to the Committee on Foreign Relations:

S. CON. RES. 75

Whereas, Yang Wei, a Chinese national, studied at the University of Arizona from 1983 until he received his Masters of Science degree in microbiology in 1986;

Whereas, in May 1986 Yang Wei returned to China to marry Dr. Che Shaoli and arrange for funding for his continued studies under a Ph.D. program at the University of Arizona;

Whereas, on January 11, 1987 while still an official student at the University of Arizona, Yang Wei was arrested by the Shanghai Public Security Bureau;

Whereas, Yang Wei has been held without charge or trial since January 11, 1987;

Whereas, Mr. Yang's wife, a student at Baylor Medical College in Houston, Texas, has been refused any information about her husband's whereabouts or condition by Chinese authorities;

Whereas, Mr. Yang's father, Yang Jue, and his mother Bi Shuyun, have been denied all contact with their son;

Whereas, the Chinese Criminal Procedure law of 1979, Sections 92, 97, 125 and 142 provides for a maximum of four and a half months of detention without charge or trial and Yang Wei has now been held over eight months, contrary to Chinese law;

Whereas, Yang Wei has not committed any crime under United States or Chinese law;

Whereas, Yang Wei and his wife only aspire to freedom and democracy;

Whereas, the treatment of Mr. Yang and his family is frightening to all Chinese students now studying in the West and meant to be so by Chinese authorities; and

Whereas, recently more than two thousand Chinese students signed an open letter to express their concern about recent political developments in their country; be it

Resolved by the Senate and House of Representatives concurring, That—

(1) The People's Republic of China should immediately release Yang Wei and provide compensation for his illegal detention; and

(2) Until the human rights situation in the People's Republic of China clarifies, the United States Government should offer Chinese students studying in the United States participation in the Extended Voluntary Departure Program.

CONCURRENT RESOLUTIONS RELATING TO HUMAN RIGHTS VIOLATIONS IN COMMUNIST CHINA

Mr. HELMS. Mr. President, tomorrow morning, September 17, at 10 o'clock the Senate Foreign Relations Committee will address the issue of human rights violations in Communist China. I am grateful to the distinguished chairman of the committee, Senator PELL, for scheduling this important committee hearing.

Last winter and spring, Mr. President, I addressed this body four times on the issue of human rights violations in Communist China. I was by no means alone. Almost 2,000 Chinese students in the United States have signed an unprecedented letter of concern to their Government. One hundred and sixty distinguished American China scholars sent an open letter of concern. The University of Michigan's China Studies Center sent an open letter. Distinguished Chinese American scholars and colleagues from Hong Kong sent a fourth letter.

We all had hoped that these indications of concern would turn Communist Chinese authorities away from their anti-intellectual, anti-foreign political campaign known as the campaign against bourgeois liberalism. However, we have not been successful. The campaign has only intensified. Last month the Communist Party

propaganda chief declared that the struggle against Western notions of democracy and human rights remains "tense and serious" thereby providing the basis for the continuing purge of intellectuals with different points of view on political reform.

Mr. President, it is China's intellectuals, its brightest and its best, who have paid the price for this latest round of barbaric madness. Educators, scientists, poets, journalists, newspaper editors, the list goes on and on. Just last month there was a new round of purges—a well-known playwright, more newspapermen, social scientists. This is a Chinese roll of honor, Mr. President.

As the principal purpose in this campaign is the suppression of ideas it follows that the Communists would turn their attention to the press and publications. A new office has been established for the direct purpose of tightening control and censorship of the press. Filled with leftists who prospered during the misbegotten Cultural Revolution, this office, unlike other Government offices in Communist China, is very efficient. The Vice Director of the office bragged in June that 10 million copies of 1,000 titles of books and periodicals have been seized and destroyed.

Let me repeat that figure, Mr. President: 10 million copies of 1,000 titles of books and periodicals seized and destroyed.

Similar to the honor roll of Chinese patriots who have been purged this year, there is a list of Chinese publications which have been suppressed. Unfortunately, we do not have all the names. We know that there have been literary, scientific, and economic journals suppressed. Thirty-nine publications were closed in one small province alone.

Mr. President, during the Senate discussions over the Soviet Government's suppression of the human rights among the peoples it controls, the question often comes up, "Why devote so much attention to the fate of one man when millions are suffering?" The answer is twofold: One man can symbolize millions and sometimes totalitarian regimes will release one man. These are the reasons that Natan Shcharansky is free today.

Today I am submitting a concurrent resolution on one man—University of Arizona student Yang Wei. As I informed the Senate last spring Yang Wei was arrested on January 11, 1987, and is still being held. His crime is an aspiration to freedom and democracy for his native land. My resolution calls for the release of Yang Wei and the opportunity for other Chinese students to remain in the United States temporarily while the current political campaign runs its course.

On March 25 I submitted Senate Concurrent Resolution 39 and Senate Concurrent Resolution 40. Today I am resubmitting them as modified to adjust to changed circumstances. The circumstances which have changed are the continuation of the current anti-intellectual political campaign. Since March 25 another Western reporter has been expelled from Communist China, at least 40 newspapers and journals have been suppressed and many more intellectuals have been purged.

Mr. President, I ask unanimous consent that two articles from the May/June 1987 issue of China Spring Digest and two lists of purged Chinese intellectuals and suppressed publications be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

CHINESE PUBLICATIONS SUPPRESSED 1987

"Dushu" (Reading Books).
Society (Shanghai).
World Economic Herald (Shanghai).
Shenzhen Youth News.
Hubei Youth News.
Anhui Science Journal.
Anhui Journal of Scientific News.
Special Zone Workers (Shenzhen).
Special Zone Literature (Shenzhen).

CHINESE INTELLECTUALS PURGED 1987

Fang Lizhi, scientist/educator.
Liu Binyan, journalist.
Lu Jiaxi, president, Chinese Academy of Sciences.
Yan Dongsheng, vice-president, Chinese Academy of Sciences.
Zhu Houze, party official.
Yang Wei, micro-biologist.
Wang Roushui, journalist.
Yu Guangyuan, economist.
Liu De, journalist.
Liu Xinwu, newspaper editor.
Wang Ruowang, literary critic/poet
Guan Weiyan, educator.
Wu Zuguang, playwright.
Su Shaozhi, social scientist.
Yu Haocheng, newspaper editor.
Liu Zaifu, novelist.
Zhang Xianyang, social scientist.
Sun Changjiang, newspaper editor.
Xue Deyun, poet.

PLEASE HELP SAVE MY HUSBAND, YANG WEI—A U.S.-EDUCATED STUDENT ARRESTED IN SHANGHAI

(By Dr. Che Shaoli)

I am Yang Wei's wife, Che Shaoli. I was born in Shanghai in 1956. I graduated from First Medical School of Shanghai in 1983. I married Yang Wei in the summer of 1986 and came to the United States in November of the same year. I am studying for my Ph.D in Baylor college of Medicine in Texas.

Now, I must tell the plight of my husband, Yang Wei, who was secretly arrested in Shanghai, and I appeal for help.

A BRIEF BIOGRAPHY OF YANG WEI

Yang Wei was born and grew up in Shanghai in 1955. He graduated from the Biology Department of Fudan University in 1981. In 1983, he came to America to study microbiology at the University of Arizona. He received his master's degree in 1986, and returned to China to marry me in May of the same year. Yang Wei waited in China for the approval of a fellowship to continue his Ph.D. studies in the U.S.

Yang Wei's home address is: Apt 404. #13 the 5th Guang Zhong Village, Guang Zhong Rd., Shanghai, China.

THE ARREST OF YANG WEI

On January 11 of 1987, Yang Wei was arrested at his parents' home in Shanghai. Several points are noteworthy about his arrest.

1. The police had illegally searched Yang Wei's parent's home, and they found some leaflets supporting the students movement, and some of Yang Wei's personal notes about the students movement.

2. The police did not have a search or arrest warrant, nor did they show any proof that Yang Wei had broken the law. They took him into custody, saying it was a "detention check."

3. The police threatened Yang Wei's parents not to make it public, especially not to let me know because I am studying in the United States.

4. Since then Yang Wei's whereabouts has been unknown. His family members have not been allowed to visit him.

OUR FAMILY BACKGROUND

Yang Wei's father, Yang Jue, is a senior cadre of the Chinese Communist Party. He was a department head at Shanghai Railway College.

Yang Wei's mother, Bi Shuyun, also a member of the Chinese Communist Party, is now secretary of the General Party Branch of the Department of Secretariat in Shanghai University.

My parents are also Communist Party Officials. My father was the deputy commander of the Jiangsu Province's military region.

Both Yang Wei and I are not against the Government, however, we stand for China's current reforms, and we aspire to freedom and democracy.

PURSUIT OF LIBERTY AND DEMOCRACY IS NO CRIME

Yang Wei's arrest is related to his involvement in the students movement in Shanghai in December, 1986. To my knowledge, he is deeply concerned about China's four modernizations and reforms. He always stands by the reformists Hu YaoBang and Zhao Ziyang, and firmly supports students' demands for freedom and democracy. He kept a close contact with the students movement. But all of his activities were within the limits of law. He met students from various colleges, made notes and took pictures of the development of the movement. He did all this is keeping with his rights as a citizen.

MY POINTS

1. Yang Wei did not commit any crime.

2. The Shanghai Public Security Bureau did not follow legal procedures in their arrest and detention of Yang Wei.

3. The Bureau has shown themselves guilty while threatening Yang Wei's parents not to reveal Yang Wei's arrest to the public. The fact that they tried to keep it a secret to me shows that they don't trust Chinese students abroad.

4. It is illegal and inhumane not to inform Yang Wei's family members of his whereabouts to this day.

5. Students abroad are frightened at the treatment some overseas students received upon their return. Recently, more than one thousand overseas students signed an open letter to express their concern about recent political developments in the country. Yang Wei's arrest means that all of the students who have signed the letter could face political persecution. As far as I know, many stu-

dents who returned to China have been interrogated and investigated. If this practice is not changed, how can returning students have any sense of safety?

MY DEMANDS

1. The truth of Yang Wei's case must be given immediately.

2. Yang Wei must be released immediately.

Once again I appeal to media around the world to pay attention to my husband's case and show sympathy.

LIVING FOR HUMAN DIGNITY—AN INTERVIEW WITH YANG WEI'S WIFE AND RELATIVES

(By Qiu Chun)

Yang Wei, who was a graduate student at the University of Arizona between 1984 and 1986, went back to China in June 1986 to get married. While waiting for a grant to continue his study in the United States, Yang Wei was secretly arrested by the Shanghai Public Security Bureau on January 11 for his participation in the students movement at the end of 1986. After his arrest was publicized, the case aroused strong public reaction at home and abroad. Responding to it, Senator Helms has proposed a draft resolution, which would allow Chinese students extended voluntary departure, lest the students who have been associated with the democracy movement be endangered upon their return to China.

The following article is an interview with Yang Wei's wife Che Shaoli, sister Yang Xiaobei and her husband Yu Mang. The interviewer, Ms. Qiu Chun, is a personal friend of the family. She had submitted this interview to many Chinese publications in an effort to win sympathy and support for Yang Wei.

QIU. Yang Wei was secretly arrested by the Public Security Bureau in January because of his participation in the students movement. After his case was reported by the press, it attracted extensive attention from the concerned public. People want to know more about you. Would you please tell us how you met, fell in love and got married?

CHE. Our marriage was considered unusual by most people. We had never seen each other before our marriage. So when we were just married, my family felt that Yang Wei was a stranger.

QIU. How did you get to know each other? Were you introduced by someone?

CHE. Yes, it was Yu Mang who introduced us to each other. They were classmates in college. Later, Yu Mang and I went to the same graduate school. He knew both of us quite well.

When Yang Wei was in the United States, he studied very hard. However, he was always able to take time to write to me. His letters were very interesting and full of indepth thinkings. In his first letter to me he talked about his ideas "About Wife." A good wife should, he thinks, be well educated, kind and ready to help people. Also, she should preferably be healthy and like sports. People who enjoy sports are relatively more magnanimous and optimistic. To him, her appearance is not important. He said his wife should have the new ideas of the 1980s.

QIU. How long did you know each other before you got married? And when did you come to the United States?

CHE. We had corresponded for one year. He came back to China to marry me after he had got his master degree. I came to America in November, 1986, six months after we got married while Yang Wei was still waiting for his grant to continue his Ph.D studies in the United States.

QIU. Xizobei, you are Yang Wei's sister, would you please tell us about yourself and your family?

YANG. I was among the students who were allowed to take the college entrance examination admitted for the first time after the Cultural Revolution. After graduation, I taught at a very small school before coming to the United States in 1985.

My parents are both retired now. My Father, Yang Jue, used to be a director in the Shanghai Railway College. My mother, Bi Shuyun, worked on a variety of jobs. Before the Cultural Revolution, she was a teacher in the Chinese Language Department at Fudan University. During the Cultural Revolution, she was sent to work in the countryside. After the Cultural Revolution, she came back to Shanghai to work in the college of arts at Fudan University.

QIU. Did your parents have any special expectations for you and your brother? How did they raise you?

YANG. My parents expected more of my brother than me, especially in the academic field. They hoped that we could study well. During the Cultural Revolution, getting into college depended on "recommendations." Surely we didn't have any chance. After Deng Xiaoping reinstated the college entrance examination system, we had already interrupted schooling for several years.

QIU. Did they instill in you a sense of responsibility toward the country and the society?

YANG. Of course they did. Both of my parents are members of the Communist Party. They taught us to enjoy working and love socialism. The Communist party had liberated the people, therefore, they said, we should obey the Party.

QIU. How do you think about your brother?

YANG. I think my brother would be nothing special if he were in America. But in China, things are different. In the thirty years since the liberation, the people have not been able to develop their individualities. Comparatively, Yang Wei is active and creative. Many people feel Yang Wei is different from them. Some people say he is odd, some call him a bookworm, some think he is honest. One thing they have in common is that he is different.

QIU. Shaolee, what in Yang Wei is special attractive to you? What is his outlook on life?

CHE. His own words tells his outlook on life. He said a person's existence is trivial, one must strive hard to make this existence significant, and to be recognized. He said, striving is a lonesome endeavor. But he is also a very confident person. It seems he knows exactly what he is doing; he is not one bit nihilistic about life. I admire him a lot, and consider him a very happy man.

QIU. Yu Mang, you went to college with Yang Wei. Would you please tell us about your study environment and what is your knowledge and evaluation of him?

YU. Not only were we classmates for four years at Fudan University, we were also roommates. I knew him quite well. It was the first time after the Cultural Revolution we were able to enter college through entrance examinations. All of us earnestly hoped to make the best out of college. We also felt the backward state of our country must change. Yang Wei was even more eager than others. We could say that he was a very independent thinker. He had his own method of studying, he had his own opinions about learning and about the problems of the country. He cared about what was happening around him and he cared about politics.

A small episode demonstrates not only my, but the whole class' opinion about Yang Wei. Just before graduation, we all got together chatting, someone had an idea, to write some comments for each one in the class year book, entitling the book "The Class' Most . . ." Most of us got comments which were somewhat superficial and not quite true. Only the comment on Yang Wei "The Most Strange Thinker" was agreed by everybody.

QIU. Does it mean that at first you felt he was odd, but after some time, you began to agree with him?

YU. Yes, I really do feel this way. Besides, everybody knew Yang Wei was very warmhearted. While we kidded at his oddness, we still admired him deep down. We were also convinced that Yang Wei will become an accomplished person, whether in science or in some other area.

I had mentioned that he was always ready to help others. The old bicycle of his was always free for anyone to use. One summer, our class had an outing to Mt. Huang. Yang Wei was in excellent physical condition from a love for boxing and gymnastics. He volunteered to carry all the supplies up the mountain, and still ran in front of us. He studied hard, and strived for efficiency. Even going up the mountain, he would not waste time. He kept in front of us and took a lot of scenic pictures. He told us that we were too slow and had missed lots of beautiful scenes. After he had reached the top of the mountain, he would sit in a pavilion, took out his book on "Relativity" and start to read. Yang Wei wanted to make every minute useful.

QIU. Yang Wei studied microbiology at the University of Arizona. He was planning to pursue his doctorate in this field. What was his attitude toward his field of study.

YU. His major in college was biochemistry. He did well, although he felt it was too specialized. Basically, he loved science. He had taken courses in systematic engineering and computer sciences. He did very well in all of them.

QIU. Has he enjoyed reading since childhood?

CHE. Yes. I think he was born to enjoy reading.

QIU. What does he mostly read?

CHE. According to himself, he loved mathematics when he was child. But he has also read a lot of literary works. I feel that books are his life.

YANG. He reads a variety of books, and he is very interested in philosophical readings. During the Cultural Revolution, the so-called philosophy was nothing but Marxism and Leninism. Seldom could we find a book dealing with western philosophy. He had read quite a lot of Marxist and Leninist works, and really did some research about them. My mother worked in the literary field, so we had western novels at home. During the Cultural Revolution, my mother asked us not to tell anybody about these books. She even asked us not to read them, lest we would be poisoned by these western novels. In fact, my mother was afraid that we would be punished for reading these novels.

QIU. What do you think has shaped and influenced Yang Wei's attitudes and thinking?

CHE. I think his family has exercised a great influence on him. His parents are enlightened and open-minded. But his family probably never imagined that Yang Wei could be involved in politics. He has always had an inclination and aptitude for science. Another important influence was his father. His father was considerate and understanding. Yang Wei discussed everything with him. Yang Wei's experience in America has also had an important effect on him, he felt America is efficient society.

QIU. What do you think, Xiaobei?

YANG. I think the Cultural Revolution had a significant influence on him. During that time, both of my parents were subjected to humiliations such as being forced to make confession to made-up charges and going through unreasonable investigations. Students put up large-character posters attacking them. They spent several years of exile in the countryside. At that time, we lived in a workers' quarter. My brother and I were discriminated by people there and we could not make friends with other children. We were very repressed, so we stayed at home and found consolation in books.

QIU. What was Yang Wei's attitude toward our country's four modernizations and the reform?

CHE. He supports China's reform. He hoped that the reform would bring more opportunities to more people. He said, Taiwan has no satellites in space, no rockets, but the people have higher living standard than us. He thinks, at present, it is not the priority for China to pursue the most advanced technology.

QIU. Xiaobei, do you understand your brother's motivation in supporting the democratic movement?

YANG. Sure, my brother was very concerned about the country's important events. He hopes our country to be prosperous and strong. He hopes that every Chinese will enjoy human dignity.

YU. I consider it quite normal for Yang Wei to get involved in the students movement. Originally, we all saw that the reform was having positive effects, but now it is rolling back. Anyone who has conscience and a little ambition would be concerned about the country, concerned about the reform. We cannot just watch the reform being pulled back. As an old Chinese saying puts it, "Every man is responsible for the country's up and down." I think it's normal, reasonable and patriotic for young people to take part in the demonstration activities.

QIU. Shaoli, do you support him for what he has done?

CHE. What Yang Wei has done are those things every responsible and righteous Chinese should to. I have no reason to stop him. But at the same time I am very worried about him.

QIU. Is it for love that you respect his belief and goals in life?

CHE. Yes, I think so. I think to love a person means to help that person to accomplish what he wants to do, and to help him become the most perfect person possible that he himself wants to be, not the one I want.

QIU. Xiaobei, how do you feel about your brother's arrest?

YANG. Naturally I feel very sad. My brother and I have been attached to each other since childhood. In my memory, we have never quarreled even once. My brother has always taken good care of me. I think he is very knowledgable, and I have a great respect for him.

YU. The bond between them is very strong. In my experience, brothers are seldom willing to talk about their sisters in the presence of peers. But Yang Wei frequently showed his feeling of concern for his sister. His love for his sister was what called my attention to Xiaobei.

QIU. Don't you think he tried to match you on purpose?

YU. No. Yang Wei was a bookworm. He would not go out and look for a husband for his sister. Besides, Yang Wei did not know about it until we had dated for about one year. The affection Xiaobei has for him is also very special. She is always telling me that when they were kids, her brother held her hands and took her to play. In her little girl's mind, a lover's image was just her brother.

QIU. Shaoli, how did you feel after learing of Yang Wei's arrest?

CHE. Yang Wei is a sensitive person, but he always controlled himself by reason. I have been worried that he couldn't hold out in jail, that his defense of reason would fall apart. It was hard on him to remain in China and wait for the approval of his fellowship. To him waiting is a waste of time. Later, he found something worthwhile to do, and he was arrested for it. I think his life is more valuable than mine, I wish I could change places with him in jail.

QIU. The Chinese authorities has declared Yang Wei was arrested for putting up "counter-revolutionary posters," "spreading counter-revolutionary propaganda." What do you think of these charges?

CHE. I think the Chinese government is wrong in outlawing Yang Wei's thoughts and activities. There is no legal basis to the charge of counterrevolutionary. I consider his thoughts are rather revolutionary. They are for the betterment of the Chinese society. In China, everybody is thinking about the problems Yang Wei thinks about, but only a few people would really do something about it. It is as if Yang Wei didn't know it is o.k. to think, but not to act. That is the reason for his arrest.

QIU. In view of what has happened to Yang Wei, what do you think about the safety of the returning Chinese students, especially those who have signed the open letter to the Chinese government?

YU. In my opinion, what Yang Wei thought and did then are no different from what the students did when they signed the open letter. Yang Wei's arrest means that all of those who signed the letter are at risk. I believe the students who signed the open letter, if they were in China at that time, would also have done what Yang Wei did. In this sense, Yang Wei's fate is relevant to all of us. I think the overseas Chinese students should act to support Yang Wei, because to save Yang Wei is to save themselves.

QIU. After Yang Wei's case was publicized by several newspapers, what kind of response did you receive?

YU. I got phone calls through the night. People expressed their concern about Yang Wei. And they were angry with the Shanghai Public Security Bureau.

CHE. I received a lot of calls. All showed sympathy for Yang Wei. Besides, some people voluntarily took action on behalf of Yang Wei. Now, we are getting some results. The Shanghai Public Security Bureau has softened its attitude toward Yang Wei's parents, the authorities publicly admitted that they arrested Yang Wei. I am very grateful for everyone's efforts.

QIU. Yu Mang, what kind of help do you expect of the public?

YU. I hope people from all walks of life, including the overseas students, will write letters and make telephone calls to the concerned authorities, to express their concern about Yang Wei's case.

SENATE CONCURRENT RESOLUTION 76—TO ACKNOWLEDGE THE CONTRIBUTION OF THE IROQUOIS CONFEDERACY OF NATIONS TO THE DEVELOPMENT OF THE U.S. CONSTITUTION AND TO REAFFIRM THE CONTINUING GOVERNMENT-TO-GOVERNMENT RELATIONSHIP BETWEEN INDIAN TRIBES AND THE UNITED STATES ESTABLISHED IN THE CONSTITUTION

Mr. INOUYE (for himself, Mr. EVANS, Mr. DECONCINI, Mr. BURDICK, Mr. MCCAIN, Mr. ADAMS, Mr. BOREN, Mr. CONRAD, Mr. CRANSTON, Mr. D'AMATO, Mr. DOLE, Mr. FORD, Mr. FOWLER, Mr. LEVIN, Mr. PELL, Mr. PRYOR, Mr. REID, Mr. RIEGLE, and Mr. STAFFORD) submitted the following concurrent resolution; which was referred to the Select Committee on Indian Affairs:

S. CON RES. 76

Whereas, the original framers of the Constitution, including most notably, George Washington and Benjamin Franklin, are known to have greatly admired the concepts, principles and governmental practices of the Six Nations of the Iroquois Confederacy; and,

Whereas, the Confederation of the original thirteen colonies into one Republic was explicitly modeled upon the Iroquois Confederacy as were many of the democratic principles which were incorporated into the Constitution itself; and,

Whereas, since the formation of the United States, the Congress has recognized the sovereign status of Indian Tribes, and has, through the exercise of powers reserved to the Federal Government in the Commerce Clause of the Constitution (art. I, s8, cl. 3), dealt with Indian Tribes on a government-to-government basis and has, through the Treaty Clause (art. II, s2, cl. 2), entered into 370 treaties with Indian tribal nations; and,

Whereas, from the first treaty entered into with an Indian nation, the Treaty with the Delaware Indians of September 17, 1778, and thereafter in every Indian Treaty until the cessation of treaty-making in 1871, the Congress has assumed a trust responsibility and obligation to Indian Tribes and their members to "exercise the utmost good faith in dealings with the Indians" as provided for in the Northwest Ordinance of 1787, (1 Stat. 50); and,

Whereas, Congress has consistently reaffirmed these fundamental policies over the past 200 years through legislation specifically designed to honor this special relationship; and,

Whereas, the judicial system of the United States has consistently recognized and reaffirmed this special relationship: Now, therefore be it

Resolved by the Senate (the House of Representatives concurring), That:

(1) The Congress, on the occasion of the 200th Anniversary of the signing of the United States Constitution, acknowledges the historical debt which this Republic of

the United States of America owes to the Iroquois Confederacy and other Indian Nations for their demonstration of enlightened, democratic principles of government and their example of a free association of independent Indian nations;

(2) The Congress also hereby reaffirms the constitutionally recognized government-to-government relationship with Indian Tribes which has historically been the cornerstone of this nation's official Indian policy;

(3) The Congress specifically acknowledges and reaffirms the trust responsibility and obligation of the United States Government to Indian Tribes, including Alaska Natives, for their preservation, protection and enhancement, including the provision of health, education, social and economic assistance programs as necessary, to assist Tribes to perform their governmental responsibility to provide for the social and economic well-being of their members and to preserve tribal cultural identity and heritage; and

(4) The Congress also acknowledges the need to exercise the utmost good faith in upholding its treaties with the various Tribes, as the Tribes understood them to be, and the duty of a Great Nation to uphold its legal and moral obligations for the benefit of all of its citizens so that they and their posterity may also continue to enjoy the rights they have enshrined in the United States Constitution for time immemorial.

AMENDMENTS SUBMITTED

DEPARTMENT OF DEFENSE AUTHORIZATION ACT, FISCAL YEARS 1988 AND 1989

WARNER (AND OTHERS) AMENDMENT NO. 682

Mr. WARNER (for himself, Mr. THURMOND, Mr. HUMPHREY, Mr. QUAYLE, Mr. WILSON, Mr. GRAMM, Mr. SYMMS, Mr. MCCAIN, Mr. HELMS, Mr. HOLLINGS, and Mr. WALLOP) proposed an amendment to the bill (S. 1174) to authorize appropriations for fiscal years 1988 and 1989 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal years for the Armed Forces, and for other purposes; as follows:

On page 23, strike out line 7 through page 24, line 19.

QUAYLE (AND OTHERS) AMENDMENT NO. 683

Mr. QUAYLE (for himself, Mr. WILSON, and Mr. HELMS) proposed an amendment to the bill S. 1174, supra; as follows:

SEC. SENSE OF CONGRESS ON THE KRASNOYARSK RADAR.

(a) FINDINGS.—The Congress finds the following:

(1) The 1972 Anti-Ballistic Missile Treaty prohibits each party from deploying ballistic missile early warning radars except at locations along the periphery of its national territory and oriented outward.

(2) The 1972 Anti-Ballistic Missile Treaty prohibits each party from deploying an ABM system to defend its national territory and from providing a base for any such nationwide defense.

(3) Large phased-array radars were recognized during negotiation of the Anti-Ballistic Missile Treaty as the critical long lead-time element of a nationwide defense against ballistic missiles.

(4) In 1983 the United States discovered the construction, in the interior of the Soviet Union near the town of Krasnoyarsk, of a large phased-array radar that has subsequently been judged to be for ballistic missile early warning and tracking.

(5) The Krasnoyarsk radar is more than 700 kilometers from the Soviet-Mongolian border and is not directed outward but instead, faces the northeast Soviet border more than 4,500 kilometers away.

(6) The Krasnoyarsk radar is identical to other Soviet ballistic missile early warning radars and is ideally situated to fill the gap that would otherwise exist in a nationwide Soviet ballistic missile early warning radar network.

(7) The President has certified that the Krasnoyarsk radar is an unequivocal violation of the Anti-Ballistic Missile Treaty.

(b) SENSE OF CONGRESS.—It is the sense of the Congress that the Soviet Union is in violation of its legal obligation under the 1972 Anti-Ballistic Missile Treaty.

BENTSEN (AND OTHERS) AMENDMENT NO. 684

Mr. BENTSEN (for himself, Mr. GRAMM, and Mr. COCHRAN) proposed and amendment to the bill S. 1174, supra; as follows:

On page 198, between lines 4 and 5, insert the following

PART C—MISCELLANEOUS PROVISIONS

SEC. 2831. COMMUNITY PLANNING ASSISTANCE

The Secretary of Defense may expend not more than $300,000 from funds appropriated to the Department of Defense for fiscal year 1988 pursuant to an authorization contained in this division and not more than $300,000 from funds appropriated to the Department of Defense for fiscal year 1989 pursuant to an authorization contained in this division to provide planning assistance to communities located near Gulf Coast homeports proposed under the Naval Strategic Dispersal Program, if the Secretary determines that the financial resources available to the communities (by grant or otherwise) are inadequate.

EXTENSION OF PHYSICIAN'S COMPARABILITY ALLOWANCES AND SPECIAL PAY FOR PSYCHOLOGISTS IN THE PUBLIC HEALTH SERVICE

STEVENS AMENDMENT NO. 685

Mr. CHAFEE (for Mr. STEVENS) proposed an amendment to the bill (S. 1666) to amend title 5, U.S. Code, to provide for the extension of physicians comparability allowances and to amend title 37, U.S. Code, to provide for special pay for psychologists in the commissioned corps of the Public Health Service; as follows:

On page 2, strike out lines 4 through 6, and insert in lieu thereof: Section 5948(a) of title 5, United States Code, is amended—

(1) in paragraph (1) by striking out "$7,000" and inserting in lieu thereof "$14,000";

(2) in paragraph (2) by striking out "$10,000" and inserting in lieu thereof "$20,000"; and

(3) by adding at the end thereof (after and below paragraph (2)) the following:

"For the purpose of determining length of service as a Government physician, service as a physician under section 4104 or 4114 of title 38 or active service as a medical officer in the commissioned corps of the Public Health Service under Title II of the Public Health Service Act (42 U.S.C. ch. 6A) shall be deemed service as a Government physician."

NOTICES OF HEARINGS

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. BUMPERS. Mr. President, I would like to announce for the public that a field hearing has been scheduled before the Subcommittee on Public Lands, National Parks and Forests.

The field hearing will take place October 12, 1987, from 9 a.m. to 12 noon, and 1:30 p.m. to 4:30 p.m. The hearing will be held in the Carlsbad Civic Center at 4012 National Parks Highway, Carlsbad, NM.

The purpose of the field hearing is to receive testimony on S. 1272, the Waste Isolation Pilot Plant [WIPP] Land Withdrawal Act of 1987.

Those wishing further information about the hearing should contact Julie Thompson or Lynn Ditto in Senator JEFF BINGAMAN'S office in Roswell, NM, at (505) 622-7113 or Beth Norcross of the subcommittee staff in Washington, DC at (202) 224-7933.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON THE JUDICIARY

Mr. BYRD. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to hold a hearing during the session of the Senate on September 16, 1987, at 10 a.m. on the nomination of Robert H. Bork to be Associate Supreme Court Justice.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON AGRICULTURAL CREDIT

Mr. BYRD. Mr. President, I ask unanimous consent that the Subcommittee on Agricultural Credit, of the Committee on Agriculture, Nutrition, and Forestry, be authorized to meet during the session of the Senate on Wednesday, September 16, 1987, at 10 a.m. and 2 p.m. to mark up farm credit legislation.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS

Mr. BYRD. Mr. President, I ask unanimous consent that the full Committee on Environment and Public Works be authorized to meet during the session of the Senate on September 16, until 12 noon to mark up clean air legislation.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. BYRD. Mr. President, I ask unanimous consent that the Committee on Energy and Natural Resoures be authorized to meet during the session of the Senate on Wednesday, September 16, 1987, at 9:30 a.m. to consider the response to the reconciliation instructions under the budget resolution; S. 1145, amendments to the Alaska Native Claims Settlement Act of 1971; S. 1084, and amendent No. 176, United States Uranium Enrichment Act; S. 1100, and amendment No. 177, Uranium Revitalization and Tailings Reclamation Act of 1987; S. 247, to designate the Kern River as a national wild and scenic river; H.R. 799, Kings River in California; S. 253, to convey Forest Serviceland to Flagstaff, AZ; H.R. 1205, to direct the Secretary of Agriculture to release a reversionary interest of the United States in certain land located in Putnam County, FL, and to direct the Secretary of the Interior to convey certain mineral interests of the United States in such land to the State of Florida; H.R. 1744, to amend the National Historic Preservation Act to extend the authorization for the Historical Preservation Fund; H.R. 797 to authorize the donation of certain non-Federal lands to Gettysburg National Military Park and to require a study and report on the final development of the park; H.R. 990, to direct the Secretary of the Interior to convey a certain parcel of land located near Ocotillo, CA; H.R. 242, to provide for the conveyance of certain public lands on Oconto and Marinette Counties, WI; S. 1297, to amend the National Trails System Act to provide for a study of the De Soto Trail; S. 575, Land Conveyance to the Catholic Diocese of Reno/Las Vegas; H.R. 1366, to provide for the transfer of certain lands in the State of Arizona; S. 574, entitled the "Battle Mountain Pasture Restoration Act of 1987; S. 1259, to direct the Secretary of the Interior to permit access across certain Federal lands in the State of Arkansas; S. 578, to amend the National Trails System Act to designate the Trail of Tears as a National Historic Trail; S. 1012, to increase the amount authorized to be appropriated for property acquisition, restoration, and development, and for transportation, educational, and cultural programs, relating to the Lowell National Historical Park; to continue the term of member of the Lowell Historical Preservation Commission pending the appointment of a successor; to adjust a quorum of the Commission in the event of a vacancy; and to delay the termination of the Commission.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FOREIGN RELATIONS

Mr. BYRD. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Wednesday, September 16, 1987, at 10:30 a.m. to hold hearings on Ambassadorial nominations.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Wednesday, September 16, 1987, at 2 p.m. to hold a hearing on Ambassadorial nomination.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

Mr. BYRD. Mr. President, I ask unanimous consent that the Committee on Commerce, Science, and Transportation and the National Ocean Policy Study, be authorized to meet during the session of the Senate on September 16, 1987, at 10 a.m. to hold hearings on S. 849, the Commercial Fishing Industry Vessel Safety and Compensation Act of 1987.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

UNITED STATES POLICY TOWARDS THE TWO KOREAS

● Mr. DECONCINI. Mr. President, the U.S. Congress is always in vital need of objective, informative, and advisory research in order to keep appraised of situations both at home and abroad. This information should come from our own governmental services as well as the academic world.

I have been fortunate to receive a report from Prof. Yung-hwan Jo of the Arizona State University Political Science Department. The paper, "U.S. Policy Towards the Two Koreas," is an indepth study covering a broad spectrum of issues pertaining to South Korea, including its recent history, the North Korean threat, and the effect of United States policy toward the region. This is both a timely and provocative paper, especially given the ongoing political unrest and labor disputes.

I am personally very interested in the issues affecting South Korea, and successfully passed a resolution this spring regarding their transition to democracy. With United States political, economic, and military interests involved in this country, I feel that insightful works such as Dr. Yung-hwan Jo's paper are extremely beneficial in reaching a greater understanding of the South Korean society. I hope my colleagues have an opportunity to read this.

Mr. President, I ask that the text of this paper be inserted in the RECORD.

The text follows:

U.S. POLICY TOWARD THE TWO KOREAS

(By Yung-hwan Jo)

Korean Institute for Human Rights has done a lot for the causes of human rights and democracy in Korea. To most of you who have expended your valuable resources for the movement, permit me to take my hat off in deference. I am honored by your invitation to be a part of commemorating the third anniversary of this Institute.

INTRODUCTION

Shortly after students occupied the U.S. Information Service Library in Seoul in May 1985, demanding a U.S. apology for the Kwangju incident and a halt to U.S. support for the Chun regime, the U.S. Embassy staff and student leaders as well as junior professors who were close to the students had a get-together at Onyang Hot Spring Hotel. The U.S. not only denied its involvement in the incident but also pointed to the limits of U.S. ability to shape the South Korean domestic situation. The Korean students countered the U.S. position by arguing that, irrespective of the real American influence on Korea, the U.S. is perceived by most Koreans as dominating and penetrating Korean affairs in a wrong direction and can easily shape the course of Korean politics in the direction of democratization, if willing. As I was told in Korea,[1] both sides assessed the conference differently and there appears to be a cognitive dissonance between the American embassy and the South Korean students. Yet, this could not be a minor irritant in the otherwise solid foundation of the Washington-Seoul alliance.

Radicalization of Korean students has been attributed to several sources: 1) students' acceptance of the "dependency" theory in sequence to earlier exposure to nationalistic values; 2) rising income gap and expectations plus relative deprivation stimulated by rapid economic growth, (in other words, any newly industrializing countries with per capita income of $2,000 or more tends to have a greater level of student activism.);[2] 3) Use of South Korea mainly as a frontline base of U.S. global strategy against the Soviet Union, and a "high-handed" policy of Washington in pressuring Seoul to remove trade barriers; and importantly, 4) the always yielding, accommodating and often knee-jerk responses of the "unpopular" and "illegitimate military" government in Seoul. However misconceived they may be, they were once the perceptions of only a small number of "radical" students. But today these views have become increasingly popular among a large number of students and others in the public. Is Korean student activism beyond control? If the military elite in South Korea can somehow convince the public of their adherence to the principle of civilian su-

Footnotes at end of article.

premacy and their personal disinterest to rule, by some concrete measures comparable to the civilization of the Brazilian military regime, a major root cause of both the increasing student unrest and the newly emerging anti-American sentiment would be eliminated, therein also removing one linkage of alleged North Korean incitement.

As for the U.S.-North Korean relations, there is even a worse perceptual gap. To the U.S. and its allies, the policies and conditions inside North Korea hold the key to the detente and reunification process of Korea. To North Korea, however, the major obstacle to the solution of the Korean problem is held by Washington. Although the basic zero-sum relationship of U.S.-North Korea has not been altered, their respective major allies (Japan and China) have normalized their traditionally hostile relations. In the second half of the post-war era, more favorable changes have taken place than in the first half. A Chinese-U.S. rapprochement as well as North-South Korean talks though often interrupted did take place which no one would have thought possible until the end of the 1960's.

Can the lessons of the recent and on-going Sino-American detente be relevant, if, not transferable, to future U.S.-North Korean relations? Washington's policy toward the two Koreas cannot be analyzed unless we take into account Washington's overall ties with Japan and its increasing ties with China.

The strategic interdependence and economic complimentarity between China and Japan will in turn make it necessary for them to play closer and more cooperative roles in influencing the external relations between the two Koreas. Washington consults both China and Japan on Korean issues, and North Korea is interdependent with China for its defense and with Japan for its economy, while South Korea is interdependent with Japan and the U.S. for its investment and security and with China for its bourgeoning commercial relations.

First, let us turn to the U.S., the main actor and the sources of its Korean policy.

AMERICAN IMAGES OF KOREA AND ITS POLITICAL DYNAMICS

Unlike China or Japan, Korea had no Western reservoir of repute on which to fall back. According to the Potomac Surveys,[3] the American people do not hold South Korea and its people in very high esteem. North Korea is relegated to the status of parish. Major economic achievements of South Korea have been recognized in recent years, but the images of Korea in general are still influenced largely by the "Koreagate," Reverend Moon, political unrest, and human rights violations of the South while to a lesser extent by the behaviors of the North such as narcotic smuggling and the Burma barbarism committed by its agents. While the majority of Americans oppose the idea of defending South Korea should the North decide to attack, many of the leadership figures approve of the security link between Seoul and Washington.

It might be worth noting that the future of America's presidential politics in 1988 is as uncertain as their Korean counter part. A recent study[4] of a leading authority on presidential elections shows that the Republican landslide of 1984 "rested entirely on the votes of the less sophisticated; Mondale actually 'won' the vote in the more sophisticated sector by a narrow 52/48 margin." The conservative wing is firmly in control of the Republican party. Can George Bush, who is less conservative and less charismatic than Reagan, be acceptable to leaders of the dominant wing of the party whose difference from the national population of the Republican party identifiers was a resounding 58%? "If the Democratic left created sufficient ideological space between it and the nations' voters to permit Republican victories, so the Republican move to the right may have opened the way for an immediate resurgence of Democratic strength en route to the White House in 1988."[5]

Although the Reagan policy has been more supportive of Seoul's security needs than Carter, there is no evidence that the educated, if not the majority, American electorate has become more conservative in recent years. As a matter of fact, the above study argues that by 1984 the national electorate had moved slightly to the left of their 1980 positions.

THE U.S. ROLE IN SOUTH KOREA: AN INTERPRETIVE HISTORY

The past U.S. policy toward Korea disappointed Koreans by acquiescing in Japan's colonization, dividing Korea and placing South Korea outside the U.S. defense zone. But Koreans owed their independence from Japan and survival of the South during the Korean war to the U.S. U.S.-South Korean relations, which were dominated in its earlier phase by security concerns has expanded into the development of political, human (immigrants), cultural and especially economic ties.

1. Although the U.S. viewed the deterioration of democracy under the Rhee government with misgivings, it did not attempt to influence the situation until the students took it upon themselves.[6]

2. The U.S. was closely involved in the diplomatic normalization between Korea and Japan in 1965 and the dispatch of ROK troops to Vietnam a few years later.[7]

3. The "Koreagate" (lobbying) scandal of 1978 was related to Korea's primary concern with the U.S. plan of troop withdrawal which was to be completed by Carter in 1981 or 1982, although this idea was conceived by Nixon. The incident caused strain between Seoul and Washington but contributed toward reversing the withdrawal plan. Many in the U.S. and Japanese executives and security communities feel uncertain about Pyongyang's intentions. The South Korean opposition even feared losing the protective U.S. influence on Korea's politics.

4. A case of role change: The role partnership of the South with the U.S. was cemented far more than that of the North with its partners; in fact, "South Koreans were adverse to any kind of change or anything that smacked of change in their relationship with the Americans."[8]

Thus, even when the Nixon Doctrine aroused misgivings on the part of the officials in Seoul, it was probably beyond their imagination that the new Nixon would seek a visit to China, a staunch ally of North Korea. After all, the real breach between Washington and Beijing was caused by the Korean war. Seoul was apprehensive that China might give "false assurances" to the U.S. that would facilitate U.S. military withdrawal from the South earlier than necessary. After all, it was the wish of Seoul that Beijing would accept and that the U.S. would agree to the continued presence of American troops in South Korea for an indefinite period. On the one hand, the necesssity of continued American involvement in South Korea was argued for as a force to keep China, the Soviet Union, and Japan from warring against each other,[9] and on the other hand, it was argued perhaps for the audience of Beijing as a possible check on resurgent Japanese militaries.[10]

In the context of its dual relationship with China and China's most feared foe, the Soviet Union, North Korea can be hypothesized to have developed its role enactment vis-a-vis these two great powers to a fine art. By making each other aware of the expectations imposed upon it by the other, and in a historical/geographical situation which obviously obliges it to avoid antagonizing either, North Korea has been able to assume a degree of autonomy in its international relations which stands out in stark contrast to the condition of the South.[11] As a result of the extremely dependent relationship between Seoul and Washington as well as the rigidity and unidimensionality of the South's past role playing vis-a-vis both the U.S. and the North, South Korea has only since developed a practical repertoire of role change, self-reliance, and detentism.

Probably nowhere will the impact of the Sino-American and the Sino-Japanese détente be more strongly felt than in the two Koreas, where each regime claims its legitimacy in a cold war exclusiveness far more intense than that which separates China from the U.S. and Japan. In the past, great power intervention intensified contention in Korea. None of the four powers would today actively intervene in the "Koreanization" of efforts to manage crisis and/or unify the country.

5. U.S. economic assistance ceased by 1970 and steady and remarkable economic growth during the past two and a half decades has forced Seoul to look far beyond the U.S. and Japan. This not only reduced its economic dependence on the U.S. but also created a source of tension with it. In having become America's seventh largest trade partner, it became one of the largest contributors to the U.S. trade deficit.

6. In spite of its earlier concerns over the realignment (role change) of the U.S. and China, South Korea has become its beneficiary. It has given Seoul an opportunity to seek contacts with China and the U.S.S.R. Seoul's diplomatic success which surpasses Pyongyang's has given it confidence and a sense of independence in its foreign policy so that America may find it difficult to ride roughshod over the growing nationalism there.

7. Up to this moment, May 1986, the U.S. appears to be far more willing to work with the authoritarian South Korean government rather than to jeopardize its authority. Korea's economic and strategic importance are viewed to be too great for Washington to risk its stability for the sake of democraticization.

SECURITY ASPECTS AND THEIR IMPLICATIONS

Security developments on the Korean Peninsula affect the security interests of the Soviet Union, China, and Japan as well as the U.S. As for U.S.-South Korean relations, they have been providing the shield behind which economic development of the South has taken place and the relationship is expected to assist in the achievement of a more democratic political life. After all, national consensus of a sort is the foundation of true security.

Washington's threat perception of Pyongyang is based on the view that the North has "the largest commando force in the world [which is] compounded by factors of time and distance." The security situation is viewed by the U.S. to be potentially unsettling with "one of the most . . . severe imbalances in military power anywhere in the

world."[12] America's security emphasis based on such a perception has undoubtedly served as an effective deterrence against North Korea and has even given South Korea confidence to deal with not only Pyongyang, but also its allies. At the same time, has it not also contributed to the arms buildup in South Korea and recently of the Soviet Union in North Korea and in its vicinity? Can these developments serve the interests of the U.S. in the region?[13]

Korea divided has meant confrontation and an escalation in the arms race. The Korean reunification may not be achieved by peaceful means. The Korean war has shown the absolute impossibility of the reunification of Korea by armed forces. And the advent of Sino-American detente has reduced the possibility of the U.S. or China intervening in another Korean war. These being the case, the rational choice of a logical and calculated mutual interest of both Koreas might suggest the inevitability of an inter-Korean detente and cooperation as is the case of the two Germanys. At a minimum, arms competition of the past must be replaced by peaceful competition.

The key to reducing arms competition and tension lies in a step-by-step building of confidence and reduction of fear and distrust on both sides. Since the past proposals to exchange observers during military exercises (team spirit) and to increase the role of the Neutral Nations Supervisory Committee, etc., has not produced any results, might it not be useful to provide Pyongyang with some basis to remove its deep sense of psychological insecurity by way of GRIT?[14] In the long run, it might also be useful for Washington to urge Seoul and Tokyo to work out their economic and security problems with regard to Pyongyang and also to urge Tokyo and Beijing to work together to limit Soviet expansionism around Korea and the Sea of Japan. It will be more desirable to pursue these multilateral approaches while seeking improvements in U.S.-North Korea relations. It is almost inconceivable that the U.S. could be drawn into talks with North Korea at the South's expense. Seoul should know this.

Some current bilateral security issues include: 1) Seoul's continuance to press for a larger amount of Foreign Military Sales credits at concessory rates (the amount being in the range of $220-$230 million in recent years); 2) the transfer of American military technology which is of a proprietary nature; and 3) sales to third countries of military equipment with a U.S. component.[15] In addition to these smaller technical issues, there is a larger negative aspect of U.S.-South Korea security developments. America's Korean policy is viewed today by the opposition, and many others, in the South to have been influenced more by the Pentagon, especially the military-industrial complex, than by the State Department and the Congress. South Korea's anti-Americanism is therefore attributed to Washington's support and tacit approval of the authoritarian military regimes of Park and Chun, especially to the latter's "alleged" involvement in the Kwangju incident of 1980.[16]

ECONOMIC ASPECTS AND THEIR IMPLICATIONS

South Korea's economic development over the last 30 years has been so rapid that today "two-way U.S.-Korean trade each year ($17 million in 1985) exceeds in value the total of all American economic aid ever provided to Korea." Such a booming economy is a U.S. foreign assistance success story.[17]

However, the current trade imbalance, created by the still small threat posed by South Korean competition, has resulted in U.S.-Korean trade frictions. This threat has the possibility of greatly intensifying in the near future. As a residual product of the Japanese trade threat, South Korea is treated like a new Japan, which exacerbated their anti-American sentiment in recent years.

Intellectually, South Korean anti-Americanism can be traced to the nationalistic emphasis of Korean education in the '80's and '70's as well as the pervasively popularized works of "dependency" theory among students and intellectuals.[18]

Lastly, it may be worth noting that Korean investment in the range of $200 million or more in the U.S. built factories and created jobs for American workers. Some 700,000 hard-working Koreans in America are also contributing toward American economy, however small it may be in terms of the totality of America.

POLITICAL ASPECTS AND THEIR IMPLICATIONS

To Washington, its influence on the Korean political situation, while greater than other powers, is limited, and many Koreans have an exaggerated notion of Washington's ability to influence events in Korea. Thus, on his visit to Seoul, May 8, 1986, U.S. Secretary of State, George Shultz said that while the U.S. is not taking sides in Korea's internal political debates he reaffirmed the U.S. support of the efforts by the Chun government to realize an orderly transition of political power. He urged the government to be basically responsive to the will of people and the opposition not to adopt violent means in the process of democratization.[19] Gaston Sigur, U.S. Assistant Secretary of State told four Korean opposition politicans that security and democratization should be pursued simultaneously in Korea.[20]

Mr. Shultz seemed to go out of his way not to indicate any loosening of Washington's backing for President Chun Doo Hwan. He emphasized ties to the U.S. by stating that the "Seoul government will only move ahead if it feels secure in its military, economic, and political ties to the U.S."[21] In addition, Shultz's praise of Chun's efforts for "smooth" transfer of power, emphasis of security and economic development over democratization goals as well as extraordinary emphasis on the difference between the Philippines and Korea, and his unwillingness to meet with Kim Dae-jung and Kim Young-som, two most-powerful opposition leaders etc. have convinced most observers, to say nothing of the Korean opposition, that he favored a "great political compromise" in favor of the military-backed Democratic Justice Party. Even if he had an intention to be neutral, his visit to Seoul has had a consequence of boosting those in power and alienating the major opposition party, New Korea Democratic Party, and many more. Mr. Secretary might have been misled about the mass and intellectual support the opposition party commands in contrast to the party in power.

In the past six years, student activism has increased dramatically with a dozen separate attacks against the U.S. establishment. These attacks took place in a country where "Yankee Go Home" was never heard before and their purpose was to pressure Washington to seek political liberalization in South Korea.[22] South Korean opposition has asked two things: one is that the U.S. declare its firm support of the cause of Korean democratization and restoration of human rights. The other is that the U.S. commander in Korea, who controls the Korea-U.S. Combined Forces Command, should endeavor to ensure the political neutrality of the Korean Armed Forces. Kim Dae-jung said, "We'll take care of the rest."[23]

Will South Korea become another Vietnam or another Philippines? Although the likelihood of the latter scenario is greater than before, most policy-makers in the U.S. and elites in South Korea might like to promote democratic transition before the country is engulfed by the kind of violence that has over taken the Philippines. The issue is "how" to promote it. The opposition wants to avoid Chumism without Chun which the party in power seems to perfer to preserve. The U.S. role is very delicate, limited or not, Reagan's disassociation from the Kirkpatrick theory[24] in favor of opposition to dictatorships on the right as well as on the left and Shultz's emphasis of democracy over military bases are commendable but appear to be less applicable to South Korea than Haiti and Philippines at last minutes. This shift as expressed in the March 14, 1986 message to the Congress appears to have been aimed at getting Congressional support for "contras."

Koreans are better educated and their economy is far superior to that of the Philippines, but the political atmosphere is more repressive in Seoul than it was in Manila under Marcos. Another Chun after 1988 under the existing seven-year term would mean thirty-five years of military supremacy over the civilians. For these reasons, Korea might have a justification for "enlightened" U.S. intervention better than, if not as much as, the Philippines. American intervention in Manila was judicious and it could be repeated in Korea when the opposition becomes stronger and united. Timing was important in the former and so was the free press.

NORTH KOREA AND INTER-KOREAN RELATIONS

U.S. policy toward the two Koreas was analyzed in terms of its policy toward Seoul, since there has not been much interaction between Washington and Pyongyang except occasionally at the Panmunjom table. Hence the U.S.-North Korea relations can be discussed initially in terms of Washington's relations with Tokyo and Beijing.

Japan is expected to extend opportunities for economic and other interactions to the North. Its role in shaping the future of Korea is larger than that of any other power, and Pyongyang knows Japan better than any other Western Power. Pyongyang's need for Japan's technological know-how and economic cooperation and Seoul's dependence on Japanese investment are increasing Japan's weight in Korean settlement. The U.S. might explore new concepts and opportunities in dealing with the North but not at the expense of Tokyo and Seoul. Japan might initiate a Tokyo-Pyongyang detente and encourage the North-South dialogue short of reunification of the two Koreas.

American leaders have not hesitated to ask the Chinese leaders to intercede with North Korea. The strategic interdependence and economic complimentarity between China and Japan/U.S. will lead China to consult Japan and the U.S. in the settlement of Korean problems. These developments favor China's establishing more ties with the South, though unofficial, and they also facilitate an improvement in inter-Korean relations. Most nations including Moscow would welcome the relaxation of

tensions in the Peninsula and a favorable external environment gives them the freedom to make accommodations to the changing economic environment in East Asia.[25]

Almost all of the policy-makers in Seoul, Tokyo, Washington, Beijing, and even Moscow hope for the gradual erosion of the rigid styles and objectives of the Northern policy. Yet, many of them, especially the U.S. and the South are still opposing the only peaceful means of approaching such an end. The U.S. should take an active role in revising Pyongyang's image and perception of the West which have been distorted by a long period of isolation from the Western world. This can be done by encouraging the North to turn outward and the outside world, especially U.S. allies, to interact with the North. The psychological environment of North Korea might also be improved in the process of its communication with Japan and the U.S., more than through contacts with the South.

Washington's unwillingness to deal with Pyongyang is based on the U.S.-South Korea assumption that the North's policy has not changed, including its willingness to attack the South at a most opportune moment and that Washington-Seoul should therefore continue the "negotiation from strength" policy toward Pyongyang. Are these assumptions still valid? The only time North Korea seriously considered a military risk was probably during the American preoccupation with the Vietnam War, not afterward. With a GNP today almost five times that of the North, a trade volume 17 times greater and military balance between the two Koreans approaching an adequate level especially with hundreds of strategic nuclear warheads, Pyongyang may not be "willing or capable" of launching an attack against the South unless there is a political turmoil of unmanageable proportion. Therefore can it not be argued that a danger that a real war would pose to the North (in view of a probable nuclear response) and its weakened competitive position compared to the South, could account for the North's substitute war and the Burma tragedy? Besides, in recent years, Pyongyang policies toward Seoul and Washington have become less rigid than Washington policy toward Pyongyang. For example, North Korea no longer insists on solving the Korean issue by the Koreans themselves. Nor does it insist on dealing directly with Washington thereby bypassing Seoul. It is now promoting the Tripartite talks which was initiated by the Carter administration; it also asks for a joint declaration of non-aggression which was originally initiated by the Park Chung Hee administration. Are not these changed overtures worth some probing?

CONCLUSION

As long as the North-South dialogue is being resumed, a precondition to any Washington-Pyongyang dialogue, there is an excellent chance for the U.S. to accede to the proposed three-way talks as a byproduct of the current Panmunjom dialogue. Would not the talks provide the U.S. an opportunity 1) to show the North Koreans about the Washington-Seoul consensus on U.S. presence; 2) to begin the slow process of making Pyongyang's system more open on the model of China; and 3) to induce China and the Soviet Union into contact with South Korea thereby leading to a de-facto cross-recognition as in the case of more than fifty nations having diplomatic relations with both Koreas?

Had there been no war experience of 1950-53 or were there a reduction of half of the mutual suspicion, we could have by now a Korean version of the Camp David Accord reached in 1978 at a tripartite conference consisting of Israel, Egypt, and the U.S. What concrete steps can we take to eradicate or at least to reduce the roots of suspicion, fear, and tension across the 38th parallel?

We must propose various confidence-building measures, otherwise both Koreas could fight like two scorpions within a bottle, locked in a vicious embrace. As psychologists Charles Osgood and Roger Fisher suggested years ago, we could experiment with: 1) "GRIT," a graduate plan calling for reciprocation in tension reduction; 2) incremental maximization of concessions with a veto power; and 3) a series of actions to be taken without incurring risk to security.[26] The Austrian Peace Treaty of 1956 was a surprise and so was the Four-Power Agreement of 1971 on access to Berlin. We should ask ourselves how and why these surprises came about and what can be learned from these events that applies to the Korean Peninsula, although obstacles to the latter case might be more severe than the former. It is important to understand that surprises always occur and that we should be imaginative while realistic.[27]

Today and hereafter, the United States faces new challenges vis-a-vis Korea including problems born of economic failure in the North and success in the South. Both Koreas are going through a precarious phase of political succession. Washington may have to leave old policies behind in order not only to accommodate these changes but also to take an initiative in Korean settlement.

Lastly, it may be worth noting for those of you who have been involved in the movement of democraticization along with Kim Dae-jung that:

1. You should be prepared for all kinds of worst case scenarios in South Korea, including: (a) a radicalized popular uprising calling for a direct involvement of Kim Dae-jung; (b) any drastic action that might be taken by the military, a coup or an attempt against his life etc. and (c) a public demand initiated by Cardinal Kim Soo-Hwan and the church leadership, if not the NKDP, that Kim Dae-jung should not seek a candidacy for the highest office.

2. A strategic importance of Korea has been elevated from a local to global level in the policy-making community of the U.S. Government. But there has not been a corresponding increase on the part of public for U.S. military commitment to South Korea. (In fact public opposition to U.S. military involvement has been two to one in case of a war in Korea.) Hence the Congressional support could fluctuate. Hence the over-all U.S. commitment to the defense of South Korea might be about half of the U.S. commitment to any major European or Japanese allies. That being the case, the current or next administration of Washington might make a short-sighted cost-benefit analysis regarding Korea. Any surprising variable could intervene in the on-going negotiation for the so-called "Great Political Compromise."

3. The political change in the Philippines has inspired the Korean opposition but Washington is not likely to have Seoul repeat the drama of Manila. Hence the pressures for reforms and compromises. Washington seems to know the Democratic Justice Party is powerful but not popular while the New Korean Democratic Party is popular but not powerful. Only if the army and the student refrain from meddling in the process of negotiation between the two, can the opposition remain solidly united and widely supported, thereby contributing toward having Washington tilt from a pro-DJP side to a neutral if not a pro-NKDP side. Students radicalization should not be allowed to become an excuse for the military to intervene.

FOOTNOTES

[1] In December, 1985, I had a chance to talk to participants of both sides.

[2] See "Analysis of Student Activism," *The Korean Herald*, November 27, 1985 for 1) and consult the "J" curve theory and the works of Douglas Price and Samuel Huntington for 2).

[3] See William Watt, *The United States and Asia: Changing Attitudes and Policies*, Lexington, Massachusetts: Lexington Books, pp. 80-82, (1982); and also Yung-hwan Jo (ed.) *U.S.Foreign Policy in Asia: An Appraisal* (Santa Barbara, CA: ABC-Clio Press, 1978).

[4] Warren E. Miller, "A New Context for Presidential Politics in the U.S.: The Reagan Legacy," a paper proposed for meeting both at Academia Sinica, Taipei and Stanford University, May and June, 1986.

[5] *Loc. cit.*

[6] Yongsoon Yim (ed.) *Handbook on Korea-U.S. Relations*, (New York: The Asia Society, 1985), p. 7.

[7] *Ibid.* and see Yung-hwan Jo, "Japanese and Korean Relations and Asian Diplomacy," *ORBIS*, Summer, 1967, pp. 582-589.

[8] U.S. Congress, House of Representatives, Committee on Foreign Affairs, *American-Korean Relations: Hearings before the Subcommittee*, 92nd Congress, 1st Session, (Washington, DC.: GPO, 1971), p. 6.

[9] Pyong-choon Huhn, "Korea and the Emerging Asian Power Balance," *Foreign Affairs*, (January 1972), pp. 339-350.

[10] *The New York Times*, September 2, 1971.

[11] See K.J. Holsti, "National Role Conceptions in the Study of Foreign Policy," and Carl W. Backman, "Role Theory and International Relations: A Commentary and Extension," *International Studies Quarterly*, Vol. 14, No. 3 (September 1, 1970), pp. 233-309, 310-319 for discussion of changing the level of analysis from individual to nation. A nation's role is seen in this paper as providing a setting for decision-making, and so establishing the parameters for acceptable policy.

[12] Paul D. Wolfowitzu, "Recent Security Developments in Korea," State Department Current Policy #731, August 12, 1985.

[13] Eugene Kim's paper at the Indian Lakes Resort Conference on Peace, Security and Unification of Korea, October 1985, pp 13-14.

[14] Charles Osgood, *An Alternative to War or Surrender*, (Urbana, Illinois: University of Illinois Press, 1962); Walter Isard, "The Veto Incremax Procedure," *Vietnam*, ed. by W. Isard (Cambridge, Massachusetts: Schemenkan, 1969).

[15] State Department Briefing Paper, "Korea: U.S.-ROK Security Relationship, December 17, 1985.

[16] This view is based on my several contacts with ruling elites of the opposition.

[17] Department of State Briefing Paper "Korea's Economic Performance," December 17, 1985, and The Heritage Foundation Asian Studies Center Background #16, "How a Booming South Korea Exports Jobs to the U.S." October 15, 1984.

[18] State Department Briefing Paper, "Korea: U.S.-ROK Security Relationship," December 17, 1985.

[19] *The Korean Republic*, May 9, 1986; *The New York Times*, May 8, 1986.

[20] *Ibid*, May 10, 1986.

[21] *The New York Times*, May 8, 1986.

[22] For *Eastern Economic Review*, December 26, 1985.

[23] *The Washington Post*, May 5, 1986.

[24] For Jeane Kirkpatrick's preference of right-wing dictators over left-wing, see her article "Human Rights and American Foreign Policy" in *Commentary*, November 1981.

[25] Nathaniel B. Thayer, "The U.S., Japan, and the East Asian Order," a paper presented at *The International Symposium on the Reunification of Korea and Peace in Asia*, Yokohama, July 1985.

[26] Charles Osgood, *An Alternative to War or Surrender*, (Urbana, Illinois: University of Illinois

Press, 1962); Walter Isard, "The Veto Incremax Procedure," *Vietnam*, ed. by W. Isard (Cambridge, Massachusetts: Schemenkan, 1969).

[27] See Hudson Institute Workship on *Future Prospects for the Korean Peninsula in a World Context*, (RI-3541/2-RR, November, 1982).

THE PASSING OF FLOYD LEE

● Mr. DOMENICI. Mr. President, I rise today to express my sorrow upon the death of a legendary man of New Mexico.

Floyd Lee died on August 21, 1987, at the age of 91. A man of selfless activities and aspirations, Floyd Lee's life resembled that of a Western Horatio Alger hero.

A World War I veteran, Floyd Lee decided to return to college. In order to defray tuition costs, he became a cowboy, and was soon promoted to the position of ranch manager. Twenty years later, Floyd Lee purchased that ranch.

He combined the tradition of the family farmer with the vision and foresight of an inventor. His innovative experiments produced such things as a new strain of sheep and a machine designed to measure the density and quality of wool.

And for his pioneering work, he was awarded many honors. Among them, he was named "Agriculturist of Distinction" by New Mexico State University in 1962, "Cattleman of the Year" by the New Mexico Cattlegrowers Association in 1965, "Farmer of the Year" by the Valencia County Farm and Livestock Bureau in 1967, and "Man of Year" by the Record Stockman in 1968.

Floyd Lee's pioneering spirit extended to politics. A 12-year State senator, Mr. Lee focused much of his interest on issues such as range management, State growth, economic progress, and educational quality. He bypassed the opportunity to run for Governor, stating that a gubernatorial campaign would drain too much of his time from family fellowship.

He added much to New Mexico through his service on the board of the Bataan Memorial Methodist Hospital, the Albuquerque Production Credit Association, and advisory boards of the Bureau of Land Management. He served as chairman of the New Mexico Wool Growers' Association.

The range of Floyd Lee's achievements reflects the complexity of his amiable character. In addition to his ranching innovations and political accomplishments, Mr. Lee had another lasting influence on our State. He captured the wolf that is the mascot of the University of New Mexico's Lobos.

In remembrance of his dedication to attaining the highest quality education in New Mexico, Mr. Lee's family has established the Floyd Lee Memorial Scholarship at both the University of New Mexico and New Mexico State University.

Floyd Lee was a pioneer. His occupational innovations, his diverse interests, his principled political involvement, and his perpetual altruism assure that Floyd Lee will hold a place among America's western legends.

Mr. President, I know that my colleagues join me in sending our most sincere condolences to Mr. Lee's daughter, Harriet Lee, to his sister. Margaret McCarthur, and to his surviving grandchildren.

New Mexico and America will miss Floyd Lee.●

THE P&L RAILROAD

● Mr. McCONNELL. Mr. President, a year ago two Kentucky businessmen, Jim Smith and David Reed, purchased trackage to be abandoned by ICG Railroad between Paducah and Louisville, KY. Since start up of the new company, the P&L Railroad has increased rail employment from 270 to 315 jobs and shop employment from 35 to 150 jobs. The company made a profit in the first month of operations and recorded revenues exceeding $45 million in the first year. The P&L's rates have helped to make area shippers more competitive thus contributing to the economy of western Kentucky.

I mention these facts, Mr. President, because it shows what can be achieved with vision, planning, and a large degree of risk. That risk was great but it has paid off in dividends for area shippers and workers. One of the owners is now contemplating an even larger undertaking; one that boggles the imagination by its scope—a $1 billion private development in Livingston County, KY—$1 billion.

The extraordinary nature of this project is best understood by its individual components:

First. A 100-acre lake and island to be completed within 30 days. The 3-acre island will be the site of a 150 to 200 room vacation lodge accessible only by boat.

Second. A 300- to 400-room hotel located on the Ohio River with convention and entertainment facilities.

Third. A 6,500-foot airport runway which is currently under construction.

Fourth. A 10-story office complex with 100,000 square feet per floor.

Fifth. A housing project of 2,000 homes.

Sixth. A theme park rivaling the scale of Opryland.

Seventh. An 18-hole golf course and hunting preserve.

Eighth. Several thousand acres of site development for heavy industrial, light industrial, warehouses and distribution centers.

In addition, to these ambitious projects, Jim Smith and his partner in the P&L Railroad, David Reed, will donate a $3.5 million office complex for the city and county and renovate the Livingston County courthouse. Plans also include rebuilding and repairing Smithland's baseball park at a cost of $150,000.

These plans are all extraordinary. But what is equally incredible is that not $1 of State or Federal money will be used. That, Mr. President, is a feat in and of itself.

Jim Smith is creating opportunities for his western Kentucky "family." He has recognized the key elements for economic development in his own backyard, a strong work force and central location, and is providing the investment to capitalize on the inherent positive attributes of the area. I applaud his vision; may his actions inspire others to risk for a better future.●

INFORMED CONSENT: LOUISIANA

● Mr. HUMPHREY. Mr. President, today I would like to insert into the RECORD a letter in support of my informed consent legislation, S. 272 and S. 273. I urge my colleagues to support my informed consent bill so that future women will not be subjected to needless pain and suffering because of a lack of information.

I ask that the letter from the State of Louisiana be printed in the RECORD.

The letter follows:

JUNE 5, 1987.

DEAR SENATOR HUMPHREY: As a young person I chose abortion as a "solution" to a problem with no alternatives. Although I thought it was a solution I was not prepared for the actual "after" problems. No one offered a true description of fact or the long term emotional trauma or any alternatives. The Bible says, "My people perish for lack of knowledge"

Lets inform women before the fact and offer alternatives.

Respectfully,

SHARON LOGAN.

LOUISIANA.●

GLOBAL ECONOMIC REALITIES

● Mr. BOSCHWITZ. I recently reread an article by Peter Drucker, Clarke professor of social science and management at the Claremont Graduate School, CA regarding the changed world economy.

Dr. Drucker pulls together in this article from the spring 1986 issue of Foreign Affairs evidence that we are part of a global village where the actions of other nations affects our everyday living. He traces the decline of manufacturing jobs with the rise in information oriented jobs and predicts that in 25 years industrial nations like the United States and Japan will have no more of their population in manufacturing than we do in agriculture. In this light, the need for knowledge becomes paramount if America is to retain a competitive advantage.

I found the arguments and themes particularly revealing and ironically similar to the relation that farmers and agricultural leaders have had to come to terms with the past decade. Dr. D. Gale Johnson published a now famous book in the early 1970's entitled "World Agriculture in Disarray." Both Johnson and Drucker describe how the United States can no longer control our destiny by trying to fool global economic realities. The realities of our world are that each nation is to a greater or lesser degree dependent on other nations for their wellbeing. This is painfully clear for American farmers and increasingly clear for everyone else in our society.

I recommend this article to all persons intersted in the future of our country and, indeed, the future of our world and I ask it be printed in the RECORD.

The article follows:

THE CHANGED WORLD ECONOMY

(By Peter F. Drucker)

The talk today is of the "changing world economy." I wish to argue that the world economy is not "changing"; it has already changed—in its foundations and in its structure—and in all probability the change is irreversible.

Within the last decade or so, three fundamental changes have occurred in the very fabric of the world economy:

The primary-products economy has come "uncoupled" from the industrial economy.

In the industrial economy itself, production has come "uncoupled" from employment.

Capital movements rather than trade (in both goods and services) have become the driving force of the world economy. The two have not quite come uncoupled, but the link has become loose, and worse, unpredictable.

These changes are permanent rather than cyclical. We may never understand what caused them—the causes of economic change are rarely simple. It may be a long time before economic theorists accept that there have been fundamental changes, and longer still before they adapt their theories to account for them. Above all, they will surely be most reluctant to accept that it is the world economy in control, rather than the macroeconomics of the nation-state on which most economic theory still exclusively focuses. Yet this is the clear lesson of the success stories of the last 20 years—of Japan and South Korea; of West Germany (actually a more impressive though far less flamboyant example than Japan); and of the one great success within the United States, the turnaround and rapid rise of an industrial New England, which only 20 years ago was widely considered moribund.

Practitioners, whether in government or in business, cannot wait until there is a new theory. They have to act. And their actions will be more likely to succeed the more they are based on the new realities of a changed world economy.

First, consider the primary-products economy. The collapse of non-oil commodity prices began in 1977 and has continued, interrupted only once (right after the 1979 petroleum panic), by a speculative burst that lasted less than six months; it was followed by the fastest drop in commodity prices ever registered. By early 1986 raw material prices were at their lowest levels in recorded history in relation to the prices of manufactured goods and services—in general as low as at the depths of the Great Depression, and in some cases (e.g., lead and copper) lower than their 1932 levels.[1]

This collapse of prices and the slowdown of demand stand in startling contrast to what had been confidently predicted. Ten years ago the Club of Rome declared that desperate shortages for all raw materials were an absolute certainty by the year 1985. In 1980 the Carter Administration's Global 2000 Report to the President: Entering the Twenty-First Century concluded that world demand for food would increase steadily for at least 20 years; that worldwide food production would fall except in developed countries; and that real food prices would double. This forecast helps to explain why American farmers bought up all available farmland, thus loading on themselves the debt burden that now so threatens them.

Contrary to all these expectations, global agricultural output actually rose almost one-third between 1972 and 1985 to reach an all-time high. It rose the fastest in less-developed countries. Similarly, production of practically all forest products, metals and minerals has gone up between 20 and 35 percent in the last ten years—again with the greatest increases in less-developed countries. There is not the slightest reason to believe that the growth rates will slacken, despite the collapse of commodity prices. Indeed, as far as farm products are concerned, the biggest increase—at an almost exponential rate of growth—may still be ahead.[2]

Perhaps even more amazing than the contrast between such predictions and what has happened is that the collapse in the raw materials economy seems to have had almost no impact on the world industrial economy. If there was one thing considered "proven" beyond doubt in business cycle theory, it is that a sharp and prolonged drop in raw material prices inevitably, and within 18 to 30 months, brings on a worldwide depression in the industrial economy.[3] While the industrial economy of the world today is not "normal" by any definition of the term, it is surely not in a depression. Indeed, industrial production in the developed non-communist countries has continued to grow steadily, albeit at a somewhat slower rate in Western Europe.

Of course, a depression in the industrial economy may only have been postponed and may still be triggered by a banking crisis caused by massive defaults on the part of commodity-producing debtors, whether in the Third World or in Iowa. But for almost ten years the industrial world has run along as though there were no raw material crisis at all. The only explanation is that for the developed countries—excepting only the Soviet Union—the primary-products sector has become marginal where before it had always been central.

In the late 1920s, before the Great Depression, farmers still constituted nearly one-third of the U.S. population and farm income accounted for almost a quarter of the gross national product. Today they account for less than five percent of population and even less of GNP. Even adding the contribution that foreign raw material and farm producers make to the American economy through their purchases of American industrial goods, the total contribution of the raw material and food producing economies of the world to the American GNP is, at most, one-eighth. In most other developed countries, the share of the raw materials sector is even lower. Only in the Soviet Union is the farm still a major employer, with almost a quarter of the labor force working on the land.

The raw material economy has thus come uncoupled from the industrial economy. This is a major structural change in the world economy, with tremendous implications for economic and social policy as well as economic theory, in developed and developing countries alike.

For example, if the ratio between the prices of manufactured goods and the prices of non-oil primary products (that is, foods, forest products, metals and minerals) had been the same in 1985 as it had been in 1973, the 1985 U.S. trade deficit might have been a full one-third less—$100 billion as against an actual $150 billion. Even the U.S. trade deficit with Japan might have been almost one-third lower, some $35 billion as against $50 billion. American farm exports would have bought almost twice as much. And industrial exports to a major U.S. customer, Latin America, would have held; their near-collapse alone accounts for a full one-sixth of the deterioration in U.S. foreign trade over the past five years. If primary-product prices had not collapsed, America's balance of payments might even have shown a substantial surplus.

Conversely, Japan's trade surplus with the world might have been a full 20 percent lower. And Brazil in the last few years would have had an export surplus almost 50 percent higher than its current level. Brazil would then have had little difficulty meeting the interest on its foreign debt and would not have had to endanger its economic growth by drastically curtailing imports as it did. Altogether, if raw material prices in relationship to manufactured goods prices had remained at the 1973 or even the 1979 level, there would be no crisis for most debtor countries, especially in Latin America.[4]

III

What accounts for this change?

Demand for food has actually grown almost as fast as the Club of Rome and the Global 2000 Report anticipated. But the supply has grown much faster; it not only has kept pace with population growth, it has steadily outrun it. One cause of this, paradoxically, is surely the fear of worldwide food shortages, if not world famine, which resulted in tremendous efforts to increase food output. The United States led the parade with a farm policy of subsidizing increased food production. The European Economic Community followed suit, and even more successfully. The greatest increases, both in absolute and in relative terms, however, have been in developing countries: in India, in post-Mao China and in the rice-growing countries of Southeast Asia.

And there is also the tremendous cut in waste. In the 1950s, up to 80 percent of the grain harvest of India fed rats and insects rather than human beings. Today in most parts of India the wastage is down to 20 percent. This is largely the result of unspectacular but effective "infrastructure innovations" such as small concrete storage bins, insecticides and three-wheeled motorized carts that take the harvest straight to a processing plant instead of letting it sit in the open for weeks.

It is not fanciful to expect that the true "revolution" on the farm is still ahead. Vast

Footnotes at end of article.

tracts of land that hitherto were practically barren are being made fertile, either through new methods of cultivation or through adding trace minerals to the soil. The sour clays of the Brazilian highlands or the aluminum-contaminated soils of neighboring Peru, for example, which never produced anything before, now produce substantial quantities of high-quality rice. Even greater advances have been registered in biotechnology, both in preventing diseases of plants and animals and in increasing yields.

In other words, just as the population growth of the world is slowing down quite dramatically in many regions, food production is likely to increase sharply.

Import markets for food have all but disappeared. As a result of its agricultural drive, Western Europe has become a substantial food exporter plagued increasingly by unsalable surpluses of all kinds of foods, from dairy products to wine, from wheat to beef. China, some observers predict, will have become a food exporter by the year 2000. India is about at that stage, especially with wheat and coarse grains. Of all major non-communist countries only Japan is still a substantial food importer, buying abroad about one-third of its food needs. Today most of this comes from the United States. Within five or ten years, however, South Korea, Thailand and Indonesia—low-cost producers that are fast increasing food output—are likely to try to become Japan's major suppliers.

The only remaining major food buyer on the world market may then be the Soviet Union—and its food needs are likely to grow.[5] However, the food surpluses in the world are so large—maybe five to eight times what the Soviet Union would ever need to buy—that its food needs are not by themselves enough to put upward pressure on world prices. On the contrary, the competition for access to the Soviet market among the surplus producers—the United States, Europe, Argentina, Australia, New Zealand (and probably India within a few years)—is already so intense as to depress world food prices.

For practically all non-farm commodities, whether forest products, minerals or metals, world demand is shrinking—in sharp contrast to what the Club of Rome so confidently predicted. Indeed, the amount of raw material needed for a given unit of economic output has been dropping for the entire century, except in wartime. A recent study by the International Monetary Fund calculates the decline as one and one-quarter percent a year (compounded) since 1900.[6] This would mean that the amount of industrial raw materials needed for one unit of industrial production is now no more than two-fifths of what it was in 1900. And the decline is accelerating. The Japanese experience is particularly striking. In 1984, for every unit of industrial production, Japan consumed only 60 percent of the raw materials consumed for the same volume of industrial production in 1973, 11 years earlier.

Why this decline in demand? It is not that industrial production is fading in importance as the service sector grows—a common myth for which there is not the slightest evidence. What is happening is much more significant. Industrial production is steadily switching away from heavily material-intensive products and processes. One of the reasons for this is the new high-technology industries. The raw materials in a semi-conductor microchip account for one to three percent of total production cost; in an automobile their share is 40 percent, and in pots and pans 60 percent. But also in older industries the same scaling down of raw material needs goes on, and with respect to old products as well as new ones. Fifty to 100 pounds of fiberglass cable transmit as many telephone messages as does one ton of copper wire.

This steady drop in the raw material intensity of manufacturing processes and manufacturing products extends to energy as well, and especially to petroleum. To produce 100 pounds of fiberglass cable requires no more than five percent of the energy needed to produce one ton of copper wire. Similarly, plastics, which are increasingly replacing steel in automobile bodies, represent a raw material cost, including energy, of less than half that of steel.

Thus it is quite unlikely that raw material prices will ever rise substantially as compared to the prices of manufactured goods (or high-knowledge services such as information, education or health care) except in the event of a major prolonged war.

One implication of this sharp shift in the terms of trade of primary products concerns the developed countries, both major raw material exporters like the United States and major raw material importing countries such as Japan. For two centuries the United States has made maintenance of open markets for its farm products and raw materials central to its international trade policy. This is what it has always meant by an "open world economy" and by "free trade."

Does this still make sense, or does the United States instead have to accept that foreign markets for its foodstuffs and raw materials are in a long-term and irreversible decline? Conversely, does it still make sense for Japan to base its international economic policy on the need to earn enough foreign exchange to pay for imports of raw materials and foodstuffs? Since Japan opened to the outside world 120 years ago, preoccupation—amounting almost to a national obsession—with its dependence on raw material and food imports has been the driving force of Japan's policy, and not in economics alone. Now Japan might well start out with the assumption—a far more realistic one in today's world—that foodstuffs and raw materials are in permanent oversupply.

Taken to their logical conclusion, these developments might mean that some variant of the traditional Japanese policy—highly mercantilist with a strong de-emphasis of domestic consumption in favor of an equally strong emphasis on capital formation, and protection of infant industries—might suit the United States better than its own tradition. The Japanese might be better served by some variant of America's traditional policies, especially a shifting from favoring savings and capital formation to favoring consumption. Is such a radical break with more than a century of political convictions and commitments likely? From now on the fundamentals of economic policy are certain to come under increasing criticism in these two countries-and in all other developed countries as well.

These fundamentals will, moreover, come under the increasingly intense scrutiny of major Third World nations. for if primary products are becoming of marginal importance to the economies of the developed world, traditional development theories and policies are losing their foundations.[7] They are based on the assumption—historically a perfectly valid one—that developing countries pay for imports of capital goods by exporting primary materials—farm and forest products, minerals, metals. All development theories, however much they differ otherwise, further assume that raw material purchases by the industrially developed countries must rise at least as fast as industrial production in these countries. This in turn implies that, over any extended period of time, any raw material producer becomes a better credit risk and shows a more favorable balance of trade. These promises have become highly doubtful. On what foundation, then, can economic development be based, especially in countries that do not have a large enough population to develop an industrial economy based on the home market? As we shall presently see, these countries can no longer base their economic development on low labor costs.

IV

The second major change in the world economy is the uncoupling of manufacturing production from manufacturing employment. Increased manufacturing production in development countries has actually come to mean decreasing blue-collar employment. As a consequence, labor costs are becoming less and less important as a "comparative cost" and as a factor in competition.

There is a great deal of talk these days about the "deindustrialization" of America. In fact, manufacturing production has risen steadily in absolute volume and has remained unchanged as a percentage of the total economy. Since the end of the Korean War, that is, for more than 30 years, it has held steady at 23-24 percent of America's total GNP. It has similarly remained at its traditional level in all of the other major industrial countries.

It is not even true that American industry is doing poorly as an exporter. To be sure, the United States is importing from both Japan and Germany many more manufactured goods than ever before. But is also exporting more, despite the heavy disadvantage of an expensive dollar, increasing labor costs and the near-collapse of a major industrial market, Latin America. In 1984—the year the dollar soared—exports of American manufactured goods rose by 8.3 percent; and they went up again in 1985. The share of U.S.-manufactured exports in world exports was 17 percent in 1978. By 1985 it had risen to 20 percent—while West Germany accounted for 18 percent and Japan 16. The three countries together thus account for more than half of the total.

Thus it is not the American economy that is being "deindustrialized." It is the American labor force.

Between 1973 and 1985, manufacturing production (measured in constant dollars) in the United States rose by almost 40 percent. Yet manufacturing employment during that period went down steadily. There are now five million fewer people employed in blue-collar work in American manufacturing industry than there were in 1975.

Yet in the last 12 years total employment in the United States grew faster than at any time in the peacetime history of any country—from 82 to 110 million between 1973 and 1985—that is by a full one third. The entire growth, however, was in non-manufacturing, and especially in non-blue-collar jobs.

The trend itself is not new. In the 1920s one out of every three Americans in the labor force was a blue-collar worker in manufacturing. In the 1950s the figure was one in four. It now is down to one in every six—and dropping. While the trend has been running for a long time, it has lately accel-

erated to the point where—in peacetime at least—no increase in manufacturing production, no matter how large, is likely to reverse the long-term decline in the number of blue-collar jobs in manufacturing or in their proportion of the labor force.

This trend is the same in all developed countries, and is, indeed, even more pronounced in Japan. It is therefore highly probable that in 25 years developed countries such as the United States and Japan will employ no larger a proportion of the labor force in manufacturing than developed countries now employ in farming—at most, ten percent. Today the United States employs around 18 million people in blue-collar jobs in manufacturing industries. By 2010, the number is likely to be no more than 12 million. In some major industries the drop will be even sharper. It is quite unrealistic, for instance, to expect that the American automobile industry will employ more than one-third of its present blue-collar force 25 years hence, even though production might be 50 percent higher.

If a company, an industry or a country does not in the next quarter century sharply increase manufacturing production and at the same time sharply reduce the blue-collar work force, it cannot hope to remain competitive—or even to remain "developed." It would decline fairly fast. Britain has been in industrial decline for the last 25 years, largely because the number of blue-collar workers per unit of manufacturing production went down far more slowly than in all other noncommunist developed countries. Even so, Britain has the highest unemployment rate among non-communist developed countries—more than 13 percent.

V

The British example indicates a new and critical economic equation: a country, an industry or a company that puts the preservation of blue-collar manufacturing jobs ahead of international competitiveness (which implies a steady shrinkage of such jobs) will soon have neither production nor jobs. The attempt to preserve such blue-collar jobs is actually a prescription for unemployment.

So far, this concept has achieved broad national acceptance only in Japan.[8] Indeed, Japanese planners, whether in government or private business, start out with the assumption of a doubling of production within 15 or 20 years based on a cut in blue-collar employment of 25 to 40 percent. A good many large American companies such as IBM, General Electric and the big automobile companies have similar forecasts. Implicit in this is the conclusion that a country will have less overall unemployment the faster it shrinks blue-collar employment in manufacturing.

This is not a conclusion that American politicians, labor leaders or indeed the general public can easily understand or accept. What confuses the issue even more is that the United States is experiencing several separate and different shifts in the manufacturing economy. One is the acceleration of the substitution of knowledge and capital for manual labor. Where we spoke of mechanization a few decades ago, we now speak of "robotization" or "automation." This is actually more a change in terminology than a change in reality. When Henry Ford introduced the assembly line in 1909, he cut the number of man-hours required to produce a motor car by some 80 percent in two or three years—far more than anyone expects to result from even the most complete robotization. But there is no doubt that we are facing a new, sharp acceleration in the replacement of manual workers by machines—that is, by the products of knowledge.

A second development—and in the long run this may be even more important—is the shift from industries that were primarily labor-intensive to industries that, from the beginning, are knowledge-intensive. The manufacturing costs of the semiconductor microchip are about 70 percent knowledge—that is, research, development and testing—and no more than 12 percent labor. Similarly with prescription drugs, labor represents no more than 15 percent, with knowledge representing almost 50 percent. By contrast, in the most fully robotized automobile plant labor would still account for 20 or 25 percent of the costs.

Another perplexing development in manufacturing is the reversal of the dynamics of size. Since the early years of this century, the trend in all developed countries has been toward even larger manufacturing plants. The economies of scale greatly favored them. Perhaps equally important, what one might call the "economies of management" favored them. Until recently, modern management techniques seemed applicable only to fairly large units.

This has been reversed with a vengeance over the last 15 to 20 years. The entire shrinkage in manufacturing jobs in the United States has occured in large companies, beginning with the giants in steel and automobiles. Small and especially medium-sized manufacturers have either held their own or actually added employees. In respect to market standing, exports and profitability too, smaller and middle-sized businesses have done remarkably better than big ones. The reversal of the dynamics of size is occurring in the other developed countries as well, even in Japan where bigger was always better and biggest meant best. The trend has reversed itself even in old industries. The most profitable automobile company these last years has not been one of the giants, but a medium-sized manufacturer in Germany—BMW. The only profitable steel companies, whether in the United States, Sweden or Japan, have been medium-sized makers of specialty products such as oil drilling pipe.

In part, especially in the United States, this is a result of a resurgence of entrepreneurship.[9] But perhaps equally important, we have learned in the last 30 years how to manage the small and medium-sized enterprise to the point where the advantages of smaller size, e.g., ease of communications and nearness to market and customer, increasingly outweigh what had been forbidding management limitations. Thus in the United States, but increasingly in the other leading manufacturing nations such as Japan and West Germany as well, the dynamism in the economy has shifted from the very big companies that dominated the world's industrial economy for 30 years after World War II to companies that, while much smaller, are professionally managed and largely publicly financed.

VI

Two distinct kinds of "manufacturing industry" are emerging. One is material-based, represented by the industries that provided economic growth in the first three-quarters of this century. The other is information- and knowledge-based: pharmaceuticals, telecommunications, analytical instruments and information processing such as computers. It is largely the information-based manufacturing industries that are growing.

These two groups differ not only in their economic characteristics but especially in their position in the international economy. The products of material-based industries have to be exported or imported as "products." They appear in the balance of trade. The products of information-based industries can be exported or imported both as "products" and as "services," which may not appear accurately in the overall trade balance.

An old example is the printed book. For one major scientific publishing company, "foreign earnings" account for two-thirds of total revenues. Yet the company exports few, if any, actual books—books are heavy. It sells "rights," and the "product" is produced abroad. Similarly, the most profitable computer "export sales" may actually show up in trade statistics as an "import." This is the fee some of the world's leading banks, multinationals and Japanese trading companies get for processing in their home office data arriving electronically from their branches and customers around the world.

In all developed countries, "knowledge" workers have already become the center of gravity of the labor force. Even in manufacturing they will outnumber blue-collar workers within ten years. Exporting knowledge so that it produces license income, service fees and royalties may actually create substantially more jobs than exporting goods.

This in turn requires—as official Washington seems to have realized—far greater emphasis in trade policy on "invisible trade" and on abolishing the barriers to the trade in services. Traditionally, economists have treated invisible trade as a stepchild, if they noted it at all. Increasingly, it will become central. Within 20 years major developed countries may find that their income from invisible trade is larger than their income for exports.

Another implication of the "uncoupling" of manufacturing production from manufacturing employment is, however, that the choice between an industrial policy that favors industrial production and one that favors industrial employment is going to be a singularly contentious political issue for the rest of this century. Historically these have always been considered two sides of the same coin. From now on the two will increasingly pull in different directions; they are indeed already becoming alternatives, if not incompatible.

Benign neglect—the policy of the Reagan Administration these last few years—may be the best policy one can hope for and the only one with a chance of success. It is probably not an accident that the United States has, after Japan, by far the lowest unemployment rate of any industrially developed country. Still, there is surely need also for systematic efforts to retrain and to place redundant blue-collar workers—something no one as yet knows how to do successfully.

Finally, low labor costs are likely to become less of an advantage in international trade simply because in the developed countries they are going to account for less of total costs. Moreover, the total costs of automated processes are lower than even those of traditional plants with low labor costs; this is mainly because automation eliminates the hidden but high costs of "not working," such as the expense of poor quality and rejects, and the costs of shutting down the machinery to change from one model of a product to another. Consider two automated American producers of televisions, Motorola and RCA. Both were almost

driven out of the market by imports from countries with much lower labor costs. Both subsequently automated, with the result that these American-made products now successfully compete with foreign imports. Similarly, some highly automated textile mills in the Carolinas can underbid imports from countries with very low labor costs such as Thailand. On the other hand, although some American semiconductor companies have lower labor costs because they do the labor-intensive work offshore, e.g., in West Africa, they are still the high-cost producers and easily underbid by the heavily automated Japanese.

The cost of capital will thus become increasingly important in international competition. And this is where, in the last ten years, the United States has become the highest-cost country—and Japan the lowest. A reversal of the U.S. policy of high interest rates and costly equity capital should thus be a priority for American decision-makers. This demands that reduction of the government deficit, rather than high interest rates, becomes the first defense against inflation.

For developed countries, especially the United States, the steady downgrading of labor costs as a major competitive factor could be a positive development. For the Third World, especially rapidly industrializing countries such as Brazil, South Korea or Mexico, it is, however, bad news.

In the rapid industrialization of the nineteenth century, one country, Japan, developed by exporting raw materials, mainly silk and tea, at steadily rising prices. Another, Germany, developed by leap-frogging into the "high-tech" industries of its time, mainly electricity, chemicals and optics. A third, the United States, did both. Both routes are blocked for today's rapidly industrializing countries—the first because of the deterioration of the terms of trade for primary products, the second because it requires an infrastructure of knowledge and education far beyond the reach of a poor country (although South Korea is reaching for it). Competition based on lower labor costs seemed to be the only alternative; is this also going to be blocked?

VII

The third major change that has occurred in the world economy is the emergence of the "symbol" economy—capital movements, exchange rates and credit flows—as the flywheel of the world economy, in place of the "real" economy—the flow of goods and services. The two economies seem to be operating increasingly independently. This is both the most visible and the least understood of the changes.

World trade in goods is larger, much larger, than it has ever been before. And so is the "invisible trade," the trade in services. Together, the two amount to around $2.5 trillion to $3 trillion a year. But the London Eurodollar market, in which the world's financial institutions borrow from and lend to each other, turns over $300 billion each working day, or $75 trillion a year, a volume at least 25 times that of world trade.[10]

In addition, there are the foreign exchange transactions in the world's main money centers, in which one currency is traded against another. These run around $150 billion a day, or about $35 trillion a year—12 times the worldwide trade in goods and services.

Of course, many of these Eurodollars, yen and Swiss francs are just being moved from one pocket to another and may be counted more than once. A massive discrepancy still exists, and there is only one conclusion: capital movements unconnected to trade—and indeed largely independent of it—greatly exceed trade finance.

There is no one explanation for this explosion of international—or more accurately, transnational—money flows. The shift from fixed to floating exchange rates in 1971 may have given an initial impetus (though, ironically, it was meant to do the exact opposite) by inviting currency speculation. The surge in liquid funds flowing to petroleum producers after the two oil shocks of 1973 and 1979 was surely a major factor.

But there can be little doubt that the U.S. government deficit also plays a big role. The American budget has become a financial "black hole," sucking in liquid funds from all over the world, making the United States the world's major debtor country.[11] Indeed, it can be argued that it is the budget deficit that underlies the American trade and payments deficit. A trade and payments deficit is, in effect, a loan from the seller of goods and services to the buyer, that is, to the United States. Without it, Washington could not finance its budget deficit, at least not without the risk of explosive inflation.

The way major countries have learned to use the international economy to avoid tackling disagreeable domestic problems is unprecedented: the United States has used high interests rates to attract foreign capital and avoid confronting its domestic deficit; the Japanese have pushed exports to maintain employment despite a sluggish domestic economy. This politicization of the international economy is surely also a factor in the extreme volatility and instability of capital flows and exchange rates.

Whichever of these causes is judged the most important, together they have produced a basic change: in the world economy of today, the "real economy of goods and services and the "symbol" economy of money, credit and capital are no longer bound tightly to each other: they are indeed moving further and further apart.

Traditional international economic theory is still neoclassical, holding that trade in goods and services determines international capital flows and foreign exchange rates. Capital flows and foreign exchange rates since the first half of the 1970s have, however, moved quite independently of foreign trade, and indeed (e.g., in the rise of the dollar in 1984-85) have run counter to it.

But the world economy also does not fit the Keynesian model in which the "symbol" economy determines the "real" economy. The relationship between the turbulences in the world economy and the various domestic economies has become quite obscure. Despite its unprecedented trade deficit, the United States has had no deflation and has barely been able to keep inflation in check; it also has the lowest unemployment rate of any major industrial country except Japan, lower than that of West Germany, whose exports of manufactured goods and trade surpluses have been growing as fast as those of Japan. Conversely, despite the exponential growth of Japanese exports and an unprecedented Japanese trade surplus, the Japanese domestic economy is not booming but has remained remarkably sluggish and is not generating any new jobs.

Economists assume that the "real" economy and the "symbol" economy will come together again. They do disagree however—and quite sharply—as to whether they will do so in a "soft landing" or in a head-on collision.

The "soft-landing" scenario—the Reagan Administration is committed to it, as are the governments of most of the other developed countries—expects the U.S. government deficit and the U.S. trade deficit to go down together until both attain surplus, or at least balance, sometime in the early 1990s. Presumably both capital flows and exchange rates will then stabilize, with production and employment high and inflation low in major developed countries.

In sharp contrast to this are the "hard-landing" scenarios.[12] With every deficit year the indebtedness of the U.S. government goes up, and with it the interest charges on the U.S. budget, which in turn raises the deficit even further. Sooner or later, the argument goes, foreign confidence in America and the American dollar will be undermined—some observers consider this practically imminent. Foreigners would stop lending money to the United States and, indeed, try to convert their dollars into other currencies. The resulting "flight from the dollar"would bring the dollar's exchange rates crashing down, and also create an extreme credit crunch, if not a "liquidity crisis" in the United States. The only question is whether the result for the United States would be a deflationary depression, a renewed outbreak of severe inflation or, the most dreaded affliction, "stagflation"—a deflationary, stagnant economy combined with an inflationary currency.

There is, however, a totally different "hard-landing" scenario, one in which Japan, not the United States, faces an economic crisis. For the first time in peacetime history the major debtor, the United States, owes its foreign debt in its own currency. To get out of this debt it does not need to repudiate it, declare a moratorium, or negotiate a "roll-over." All it has to do is devalue its currency and the foreign creditor has effectively been expropriated.

For "foreign creditor," read Japan. The Japanese by now hold about half of the dollars the United States owes to foreigners. In addition, practically all of their other claims on the outside world are in dollars, largely because the Japanese have resisted all attempts to make the yen an international trading currency lest the government lose control over it. Altogether, Japanese banks now hold more international assets than do the banks of any other country, including the United States. And practically all these assets are in U.S. dollars—$640 billion of them. A devaluation of the U.S. dollar thus would fall most heavily on the Japanese.

The repercussions for Japan extend deep into its trade and domestic economy. By far the largest part of Japan's exports goes to the United States. If there is a "hard landing," the United States might well turn protectionist almost overnight; it is unlikely that Americans would let in large volumes of imported goods were the unemployment rate to soar. But this would immediately cause severe unemployment in Tokyo and Nagoya and Hiroshima, and might indeed set off a true depression in Japan.

There is still another "hard landing" scenario. In this version neither the United States, nor Japan, nor the industrial economies altogether, experience the "hard landing"; it would hit the already depressed producers of primary products.

Practically all primary materials are traded in dollars, and their prices might not go up at all should the dollar be devalued (they actually went down when the dollar plunged by 30 percent between summer 1985 and February 1986). Thus Japan may

be practically unaffected by a dollar devaluation; Japan needs dollar balances only to pay for primary-product imports, as it buys little else on the outside and has no foreign debt. The United States, too, may not suffer, and may even benefit as its industrial exports become more competitive. But while the primary producers sell mainly in dollars, they have to pay in other developed nations' currencies for a large part of their industrial imports. The United States, after all, although the world's leading exporter of industrial goods, still accounts for only one-fifth of the total. And the dollar prices of the industrial goods furnished by others—the Germans, the Japanese, the French, the British, and so on—are likely to go up. This might bring about a further drop in the terms of trade for the already depressed primary producers. Some estimates of the possible deterioration go as high as ten percent, which would entail considerable hardship not only for metal mines in South America and Zimbabwe, but also for farmers in Canada, Kansas and Brazil.

One more possible scenario involves no "landings," either "soft" or "hard." What if the economists were wrong and both the American budget deficit and American trade deficit continue, albeit at lower levels than in recent years? This would happen if the outside world's willingness to put its money into the United States were based on other than purely economic considerations—on their own internal domestic politics, for example, or simply on the desire to escape risks at home that appear to be far worse than a U.S. devaluation.

This is the only scenario that is so far supported by hard facts rather than by theory. Indeed, it is already playing.

The U.S. government talked the dollar down by almost one-third (from a rate of 250 yen to 180 yen to the dollar) between summer 1985 and February 1986—one of the most massive devaluations ever of a major currency, though called a "readjustment." America's creditors unanimously supported this devaluation and indeed demanded it. More amazing still, they responded by increasing their loans to the United States, and substantially so. International bankers seem to agree that the United States is more creditworthy the more the lender stands to lose by lending to it!

A major reason for this Alice-in-Wonderland attitude is that the biggest U.S. creditors, the Japanese, clearly prefer even very heavy losses on their dollar holdings to domestic unemployment. And without exports to the United States, Japan might have unemployment close to that of Western Europe, nine to eleven percent, and concentrated in the most politically sensitive smokestack industries in which Japan is becoming increasingly vulnerable to competition from newcomers such as South Korea.

Similarly, economic conditions alone will not induce Hong Kong Chinese to withdraw the money they have transferred to American banks in anticipation of Hong Kong's reversion to Chinese sovereignty in 1997. These deposits amount to billions. The even larger amounts—at least several hundred billion—of "flight capital" from Latin America that have found refuge in the U.S. dollar will also not be lured away by purely economic incentives such as higher interest rates.

The sum needed from the outside to maintain both a huge U.S. budget deficit and a huge U.S. trade deficit would be far too big to make this the most probable scenario. But if political factors are in control, the "symbol" economy is indeed truly "uncoupled" from the "real" economy, at least in the international sphere. Whichever scenario proves right, none promises a return to any kind of "normalcy."

VIII

From now on exchange rates between major currencies will have to be treated in economic theory and business policy alike as a "comparative-advantage" factor, and a major one.

Economic theory teaches that the comparative-advantage factors of the "real" economy—comparative labor costs and labor productivity, raw material costs, energy costs, transportation costs and the like—determine exchange rates. Practically all businesses base their policies on this notion. Increasingly, however, it is exchange rates that decide how labor costs in country A compare to labor costs in country B. Exchange rates are thus a major "comparative cost" and one totally beyond business control. Any firm exposed to the international economy has to realize that it is in two businesses at the same time. It is both a maker of goods (or a supplier of services) and a "financial" business. It cannot disregard either.

Specifically, the business that sells abroad—whether as an exporter or through a subsidiary—will have to protect itself against three foreign exchange exposures: proceeds from sales, working capital devoted to manufacturing for overseas markets, and investments abroad. This will have to be done whether the business expects the value of its own currency to go up or down. Businesses that buy abroad will have to do likewise. Indeed, even purely domestic businesses that face foreign competition in their home market will have to learn to hedge against the currency in which their main competitors produce. If American businesses had been run this way during the years of the overvalued dollar, from 1982 through 1985, most of the losses in market standing abroad and in foreign earnings might have been prevented. They were management failures, not acts of God. Surely stockholders, but also the public in general, have every right to expect management to do better the next time around.

In respect to government policy there is one conclusion: don't be "clever." It is tempting to exploit the ambiguity, instability and uncertainty of the world economy to gain short-term advantages and to duck unpopular political decisions. But it does not work. Indeed, disaster is a more likely outcome than success, as all three of the attempts made so far amply indicate.

In the first attempt, the Carter Administration pushed down the U.S. dollar to artificial lows to stimulate the American economy through the promotion of exports. American exports did indeed go up—spectacularly so. But far from stimulating the domestic economy, this depressed it, resulting in simultaneous record unemployment and accelerated inflation—the worst of all possible outcomes.

President Reagan a few years later pushed up interest rates to stop inflation, and also pushed up the dollar. This did indeed stop inflation. It also triggered massive inflows of capital. But it so overvalued the dollar as to create a surge of foreign imports. As a result, the Reagan policy exposed the most vulnerable of the smokestack industries, such as steel and automobiles, to competition they could not possibly meet. It deprived them of the earnings they needed to modernize themselves. Also, the policy seriously damaged, perhaps irreversibly, the competitive position of American farm products in the world markets, and at the worst possible time. Worse still, his "cleverness" defeated Mr. Reagan's major purpose: the reduction of the U.S. government deficit. Because of the losses to foreign competition, domestic industry did not grow enough to produce higher tax revenues. Yet the easy and almost unlimited availability of foreign money enabled Congress (and the Administration) to postpone again and again action to cut the deficit.

In the third case the Japanese, too, may have been too clever in their attempt to exploit the disjunction between the international "symbol" and "real" economies. Exploiting an undervalued yen, the Japanese have been pushing exports—a policy quite reminiscent of America under the Carter Administration. But the Japanese policy similarly has failed to stimulate the domestic economy; it has been barely growing these last few years despite the export boom. As a result, the Japanese have become dangerously overdependent on one customer, the United States. This has forced them to invest huge sums in American dollars, even though every thoughtful Japanese (including, of course, individuals in the Japanese government and the Japanese central bank) has known all along that these investments would end up being severely devalued.

Surely these three lessons should have taught us that government economic policies will succeed to the extent to which they try to harmonize the needs of the two economies, rather than to the extent to which they try to exploit the disharmony between them. Or to repeat very old wisdom, "in finance don't be clever; be simple and conscientious." I am afraid this is advice that governments are not likely to heed soon.

It is much too early to guess what the world economy of tomorrow will look like. Will major countries, for instance, succumb to traditional fears and retreat into protectionism? Or will they see a changed world economy as an opportunity?

Some parts of the main agenda, however, are fairly clear by now. Rapidly industrializing countries like Mexico or Brazil will need to formulate new development concepts and policies. They can no longer hope to finance their development by raw material exports, e.g., Mexican oil. It is also becoming unrealistic for them to believe that their low labor costs will enable them to export large quantities of finished goods to developed countries—something the Brazilians, for instance, still expect. They would do much better to go into "production sharing," that is, to use their labor advantage to become subcontractors to developed-country manufacturers for highly labor-intensive work that cannot be automated—some assembly operations, for instance, or parts and components needed only in relatively small quantities. Developed countries no longer have the labor to do such work, which even with the most thorough automation will still account for 15 to 20 percent of manufacturing work.

Such production sharing is, of course, how Singapore, Hong Kong and Taiwan bootstrapped their development. Yet in Latin America production sharing is still politically unacceptable and, indeed, anathema. Mexico, for instance, has been deeply committed since its beginnings as a modern nation in the early years of this century to making its economy less dependent on, and

less integrated with, that of its big neighbor to the north. That this policy has been a total failure for 80 years has only strengthened its emotional and political appeal.

Even if production sharing is implemented to the fullest, it would not by itself provide enough income to fuel development, especially of countries so much larger than the Chinese "city-states." We thus need a new model and new policies.

Can we learn something from India? Everyone knows of India's problems—and they are legion. Few people seem to realize, however, that since independence India has done a better development job than almost any other Third World country: it has enjoyed the fastest increase in farm production and farm yields; a growth rate in manufacturing production equal to that of Brazil, and perhaps even of South Korea (India now has a bigger industrial economy than any but a handful of developed countries); the emergence of large and highly entrepreneurial middle class; and, arguably, the greatest achievement in providing schooling and health care in the villages. Yet the Indians followed none of the established models. They did not, like Stalin, Mao and so many leaders of newly independent African nations, despoil the peasants to produce capital for industrial development. They did not export raw materials. And they did not export the products of cheap labor. Instead, since Nehru's death in 1964, India has followed a policy of strengthening agriculture and encouraging consumer goods production. India and its achievement are bound to get far more attention in the future.

The developed countries, too, need to think through their policies in respect to the Third World—and especically in respect to the "stars" of the Third World, the rapidly industrializing countries. There are some beginnings: the debt proposals recently put forward by Treasury Secretary James A. Baker, or the new lending criteria recently announced by the World Bank for loans to Third World countries, which will be made conditional on a country's overall development policies rather than on the soundness of individual projects. But these proposals are aimed more at correcting past mistakes than at developing new policies.

The other major agenda item is—inevitably—the international monetary system. Since the Bretton Woods Conference in 1944, the world monetary system has been based on the U.S. dollar as the reserve currency. This clearly does not work any more. The reserve-currency country must be willing to subordinate its domestic policies to the needs of the international economy, e.g., risk domestic unemployment to keep currency rates stable. And when it came to the crunch, the United States refused to do so—as Keynes, by the way, predicted 40 years ago.

The stability supposedly supplied by the reserve currency could be estblished today only if the major trading countries—at a minimum the United States, West Germany and Japan—agreed to coordinate their economic, fiscal and monetary policies, if not to subordinate them to joint (and this would mean supranational) decision-making. Is such a development even conceivable, except perhaps in the event of worldwide financial collapse? The European experience with the far more modest European Currency Unit is not encouraging; so far, no European government has been willing to yield an inch for the sake of the ECU. But what else can be done? Have we come to the end of the 300-year-old attempt to regulate and stabilize money on which, after all, both the modern nation-state and the international system are largely based?

We are left with one conclusion: economic dynamics have decisively shifted from the national economy to the world economy.

Prevailing economic theory—whether Keynesian, monetarist or supply-side—considers the national economy, especially that of the large developed countries, to be autonomous and the unit of both economic analysis and economic policy. The international economy may be a restraint and a limitation, but it is not central, let alone determining. This "macroeconomic axiom" of the modern economist has become increasingly shaky. The two major subscribers to this axiom, Britain and the United States, have done least well economically in the last 30 years, and have also has the most economic instability.

West Germany and Japan never accepted the "macroeconomic axiom." Their universities teach it, of course, but their policymakers, both in government and in business, reject it. Instead, both countries all along have based their economic policies on the world economy, have systematically tried to anticipate its trends and exploit its changes as opportunities. Above all, both make the country's competitive position in the world economy the first priority in their policies—economic, fiscal, monetary, even social—to which domestic considerations are normally subordinated. And these two countries have done far better—economically and socially—than Britain and the United States these last 30 years. In fact, their focus on the world economy and the priority they give it may be the real "secret" of their success.

Similarly the "secret" of successful businesses in the developed world—the Japanese, the German carmakers like Mercedes and BMW, Asea and Erickson in Sweden, IBM and Citibank in the United States, but equally of a host of medium-sized specialists in manufacturing and in all kinds of services—has been that they base their plans and their policies on exploiting the world economy's changes as opportunities.

From now on any country—but also any business, especially a large one—that wants to prosper will have to accept that it is the world economy that leads and that domestic economic policies will succeed only if they strengthen, or at least do not impair, the country's international competitive position. This may be the most important—it surely is the most striking—feature of the changed world economy.

FOOTNOTES

[1] When the price of petroleum dropped to $15 a barrel in February 1986, it was actually below its 1933 price (adjusted for the change in the purchasing power of the dollar). It was still, however, substantially higher than its all-time low in 1972-73, which in 1986 dollars amounted to $7-$8 a barrel.

[2] On this see two quite different discussions by Dennis Avery, "U.S. Farm Dilemma: The Global Bad News Is Wrong," *Science*, Oct. 25, 1985; and Barbara Insel, "A World Awash in Grain," *Foreign Affairs*, Spring 1985.

[3] The business cycle theory was developed just before World War I by the Russian mathematical economist, Nikolai Kondratieff, who made comprehensive studies of raw material price cycles and their impacts all the way back to 1797.

[4] These conclusions are based on static analysis, which presumes that which products are bought and sold is not affected by changes in price. This is of course unrealistic, but the flaw should not materially affect the conclusions.

[5] Although the African famine looms large in our consciousness, the total population of the affected areas is far too small to make any dent in world food surpluses.

[6] David Sapsford, *Real Primary Commodity Prices: An Analysis of Long-Run Movements*, International Monetary Fund Internal Memorandum, May 17, 1985, (unpublished).

[7] This was asserted as early as 1950 by the South American economist Raul Prebisch in *The Economic Development of Latin America and its Principal Problems* (E/CN. 12/89/REV.I), United Nations Economic Commission for Latin America. But then no one, including myself, believed him.

[8] The Japanese government, for example, sponsors a finance company that makes long-term, low interest loans to small manufacturers to enable them to automate rapidly.

[9] On this see my book, *Innovation and Entrepreneurship: Practice and Principles*, New York: Harper & Row, 1985.

[10] A Eurodollar is a U.S. dollar held outside the United States.

[11] This is cogently argued by Stephen Marris, for almost 30 years economic adviser to the Organization for Economic Cooperation and Development (OECD), in his *Deficits and the Dollar: The World Economy at Risk*, Washington: Institute of International Economics, December 1985.

[12] Stephen Marris, *Deficits and the Dollar*, cited above, gives the clearest and most persuasive presentation of the hard-landing scenarios.●

TRIBUTE TO BANDELIER ELEMENTARY SCHOOL

● Mr. DOMENICI. Mr. President, I am very proud to tell my colleagues about seven students from Bandelier Elementary School in Albuquerque, NM, who recently won first place at the National Olympics of the Mind competition. I know the Senate joins me in wishing the students and Bandelier Elementary our congratulations.

This national program often called simply OM, is a problem solving competition for elementary, middle, and high school students. The competition attracted over 600 teams from across the country. By challenging students to be creative, and by encouraging students to test their intellectual powers in competition, the program encourages the development of skills for creativity and problem solving.

Teams compete throughout the school year before reaching the national competition. Early in the school year, board members devise five long-term problems for teachers to present to their students. Student teams then choose one of those problems and work together to solve it. Each school chooses a team to compete at the State level, and those State winners advance to the national competition.

In this year's national competition, the team of fourth and fifth graders from Bandelier Elementary School enacted a 7-minute caveman scene. This included a fire discovery scene and musical instrument creation skit. In addition to taking first place in their division, the Bandelier youngsters won the Ranata Fusca Award for outstanding creativity in problem solving.

Mr. President, I am very pleased to recognize before the Senate today the Bandelier team members: Cathy Csepregi, Claire Johnson, Michael Feferman, Matthew Jackson, Amee Marsjanik, Tim Scott, and Todd Windes.

I also would like to commend the parents of the students, as well as the

team choaches, Sandy Lethem and Frank Csepregi, and Bandelier Elementary School principal Joe Groom.

The hard work and creativity demonstrated by these students, and the support and encouragement given the students by their parents and teachers, makes me and all New Mexicans so very proud of our schools.

NAUM MEIMAN

● Mr. SIMON. Mr. President, I am pleased to hear that Foreign Minister Shevardnadze's visit to our country has allowed President Reagan to raise the issue of human rights directly with a high-ranking official in the Soviet Government.

I have told and retold the story of my good friend Naum Meiman. Yesterday gave new hope to those of us struggling for Naum and his many comrades in the Soviet Union. Naum is still trying unsuccessfully to leave the Soviet Union, Naum is still trying to be reunited with his daughter whom he has not seen for 11 years, and Naum is still suffering from constant harassment and religious persecution. Most importantly, Naum is still suffering from the loss of his wife, Inna, who died prematurely as a consequence of inadequate medical care in the Soviet Union.

The progress made yesterday toward making the world safer from the threat of nuclear destruction is welcome. However, it should not allow us to forget those individuals in the Soviet Union who continue to suffer and whose basic human rights continued to be denied.

We must not forget the plight of Naum Meiman. Yesterday's meeting was a step, a single step, that must be followed by many more.●

THE CALENDAR

Mr. BYRD. Madam President, I ask the distinguished acting Republican leader, Mr. CHAFEE, if two items on the Calendar of Business, Calendar Order No. 297 and Calendar Order No. 303, have been cleared on his side of the aisle.

Mr. CHAFEE. Madam President, I say to the majority leader that he is absolutely correct. No. 297 has been cleared and available for passage at his convenience. On No. 303, I have an amendment by Senator STEVENS that, at the appropriate time, I would like to offer. But if the majority leader would like to proceed with 297, we might do that if he is agreeable.

Mr. BYRD. Madam President, I thank my friend.

I ask unanimous consent that the Senate proceed seriatim to the consideration of Calendar Orders numbered 297 and 303.

The PRESIDING OFFICER. Without objection, it is so ordered.

REVISION OF PENALTIES RELATING TO CERTAIN AVIATION REPORTS AND RECORDS OFFENSES

The PRESIDING OFFICER. The clerk will report the bill.

The assistant legislative clerk read as follows:

A bill (H.R. 1163) to amend section 902(e) of the Federal Aviation Act of 1958 to revise criminal penalties relating to certain aviation reports and records offenses.

Mr. HOLLINGS. Mr. President, I rise in support of H.R. 1163, legislation to strengthen the criminal penalties for those airlines not complying with Federal Aviation Administration safety recordkeeping and reporting requirements. It is badly needed to ensure the airlines are not cutting corners on their operations and maintenance activities—and therefore remain safe to fly.

I want to commend the Chairman of the Aviation Subcommittee, Senator FORD, for taking the necessary steps to ensure that this bill—which was passed by the House of Representatives earlier this year without objection—is enacted into law. And I want to commend its sponsor, DAN GLICKMAN, for his efforts to introduce this bill as a means of ensuring that there is no compromising aviation safety.

Mr. President, there are several reasons why increased penalties are needed. But the principle one remains the safety of those who fly. Only last month we once again say the tragedy caused by a crash of an airliner in Detroit—and the loss of scores of lives.

That accident reinforces the need for us to take every conceivable action to ensure that in this deregulated environment, the airways remain safe.

We did not deregulate aviation safety in 1978. Everyone will agree on that. Yet, under deregulation, there are increasing pressures for the airlines to focus on competitive demands—which can result in a dimunition of attention on necessary activities such as preventative maintenance. In today's deregulated environment, there is no assurance that the costs of running an airline will be covered, and the possibility of not performing such maintenance is very real.

As such, there exists the incentive for an airline to cut corners. And because of the minimal penalties now on the books for falsifying records and reports required by the FAA—a misdemeanor punishable by a fine of between $100 and $5,000—an airline CEO, in an extreme case, may find it in his best interest to falsify or not report such information. The fact that it does occur was made clear by recent in-depth inspection by the FAA of the major air carriers and the identification of record numbers of recordkeeping and reporting violations.

Mr. President, this bill, which will increase those criminal penalties for the failure to file or intentional falsification of FAA-required safety reports, will help ensure that that incentive is eliminated. H.R. 1163 would do this by imposing the threat of penalties that could reach $10,000 for every violation—as well as imprisonment—steps that should ensure that adequate records are kept and that safety is not compromised.

Mr. President, I urge the Senate to move swiftly on this bill. It should be passed today and sent to the President for his signature.

Mr. FORD. Mr. President, H.R. 1163, legislation to establish criminal penalties for commercial air carriers in violation of aviation safety reporting and recordkeeping requirements is timely legislation and it should be passed. I urge my colleagues to join me in supporting it and sending it to the President so that it can be expeditiously signed into law.

The past 2 years have shown an increasing need for criminal penalties related to the Federal Aviation Administration's recordkeeping and reporting requirements on airline safety matters. Increasingly, the FAA has found that airlines are guilty of not complying with current requirements on maintaining and proper reporting of records on operational and training activities, maintenance, flight time, weight and balance calculation, hazardous material training, and the processing and certification of flight crews. The best and most recent example of this was last year when the FAA identified some 78,000 violations by Eastern Airlines of the agency's safety recordkeeping and reporting requirements.

Mr. President, it is not news to anyone when I say that public confidence in our Nation's air transportation system has never been lower. Recent accidents and increasing reports of safety problems necessitate our taking every action possible to increase the margin of aviation safety.

Clearly, action is needed. In this case that translates into legislation to ensure increased compliance with FAA recordkeeping and reporting requirements—and correspondingly, I believe, increased safety among commercial air carriers.

H.R. 1163 would establish fines of not more than $5,000 in the case of an individual and not more than $10,000 in the case of an air carrier for the failure to file or falsification of a report, account, record, or memorandum required by FAA safety-related rules or regulations. It would also require that any air carrier or employee who intentionally falsifies or conceals a material fact, or invites reliance on a false statement or representation concerning a material fact in a report, account, record, or memorandum required by the FAA would be punish-

able by fine, imprisonment of up to 5 years, or both.

This legislation, which was introduced by Congressman DAN GLICKMAN, has already unanimously been approved by the House of Representatives. And it was approved in late July without objection by the Commerce Committee. I therefore see no reason why it should not pass today with the same kind of support.

Mr. President, H.R. 1163 is needed to ensure increased compliance with the FAA's safety rules and regulations. It is needed to improve aviation safety. I urge my colleagues to join me in supporting its passage.

The PRESIDING OFFICER. Are there amendments? If not, the question is on the third reading and passage of the bill.

The bill (H.R. 1163) was ordered to a third reading, was read the third time, and passed.

Mr. BYRD. Madam President, I move to reconsider the vote by which the bill was passed.

Mr. CHAFEE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

PAY AND ALLOWANCES OF CERTAIN MEMBERS OF THE COMMISSIONED CORPS OF THE PUBLIC HEALTH SERVICE

The PRESIDING OFFICER. The clerk will report the next measure.

The assistant legislative clerk read as follows:

A bill (S. 1666) to amend title 5, United States Code, to provide for the extension of physicians comparability allowances and to amend title 27, United States Code, to provide for special pay for psychologists in the commissioned corps of the Public Health Service.

The Senate proceeded to consider the bill.

AMENDMENT NO. 685

(Purpose: To amend title 5, United States Code, to increase the minimum amount of the physicians comparability allowance)

Mr. CHAFEE. Madam President, I send an amendment to the desk and ask it be reported.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Rhode Island [Mr. CHAFEE], for Mr. Stevens, proposes an amendment numbered 685.

Mr. CHAFEE. Madam President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Is there objection, it is so ordered.

The amendment is as follows:

On page 2, strike out lines 4 through 6, and insert in lieu thereof:

Section 5948(a) of title 5, United States Code, is amended—

(1) in paragraph (1) by striking out "$7,000" and inserting in lieu thereof "$14,000";

(2) in paragraph (2) by striking out "$10,000" and inserting in lieu thereof "$20,000"; and

(3) by adding at the end thereof (after and below paragraph (2)) the following:

"For the purpose of determining length of service as a Government physician, service as a physician under section 4104 or 4114 of title 38 or active service as a medical officer in the commissioned corps of the Public Health Service under Title II of the Public Health Service Act (42 U.S.C. ch. 6A) shall be deemed service as a Government physician."

Mr. STEVENS. Mr. President, the Federal Physicians Comparability Allowance Act of 1978 enabled the heads of executive agencies to offer service agreements to certain categories of Federal physicians and dentists in order to alleviate recruitment and retention problems experienced by the agencies. The allowance which was reauthorized in 1979, 1981, and 1983 is used only where there is a significant recruitment and retention problem. Currently it may not exceed:

The $7,000 per annum if, at the time the agreement is entered into, the physician has served for 24 months or less; or $10,000 per annum if the physician has more than 24 months' service.

The act will expire September 30, 1987.

Recent statistics show that in the last 3 years, the percentage of physicians receiving the bonus has grown from 53 percent to 61 percent Governmentwide. The largest category of physicians receiving the allowance are researchers—92 percent. Even with the comparability allowance these physicians have a pay gap with private sector physicians ranging from 28 to 75 percent. Consequently, the agencies are still experiencing recruitment and retention problems. Mr. President, we are living in a time when we must attract the very best physicians to the Federal Government. We need top academicians to attack national problems such as AIDS and cancer. We cannot always provide the benefits and modern facilities commonly available in the private sector, but we can do something to narrow the pay gap.

The bill I introduced August 7, 1987, would reauthorize the act until September 30, 1990. It will also raise the maximum allowance to $20,000 in lieu of the current $10,000. I would still expect that the $10,000 limit would be used in most cases, but additional incentive would be available for extraordinary recruitment and retention problems. The bill will also expand special pay coverage to psychologists in the commissioned corps of the Public Health Service who have been board certified by the American Board of Professional Psychology. It is comparable to the board certified pay given to Public Health Service medical officers.

The amendment I am offering today would also raise the $7,000 per annum maximum for physicians who have served for 24 months or less to $14,000 maximum. Following further discussions with the administration, I have concluded that it would be appropriate that the maximum also be raised for those with less than 24 months' service. While I would expect that the maximum allowance would not be routinely used, it would allow agencies the flexibility to offer higher salaries to attract exceptionally qualified physicians from the private sector.

Mr. President, we are nearing the expiration date of the Federal Physician's Comparability Allowance Act. I urge my colleagues to support this important legislation.

The PRESIDING OFFICER. If there be no further debate, the question is on agreeing to the amendment of the Senator from Rhode Island.

The amendment (No. 685) was agreed to.

The PRESIDING OFFICER. Are there further amendments to be proposed?

The question is on the engrossment and third reading of the bill.

The bill (S. 1666) was ordered to be engrossed for a third reading, was read the third time, and passed, as follows:

S. 1666

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. FEDERAL PHYSICIANS COMPARABILITY ALLOWANCE AMENDMENTS.

(a) PHYSICIANS COMPARABILITY ALLOWANCES.—Section 5948(a) of title 5, United States Code, is amended—

(1) in paragraph (1) by striking out "$7,000" and inserting in lieu thereof "$14,000";

(2) in paragraph (2) by striking out "$10,000" and inserting in lieu thereof "$20,000"; and

(3) by adding at the end thereof (after and below paragraph (2)) the following:

"For the purpose of determining length of service as a Government physician, service as a physician under section 4104 or 4114 of title 38 or active service as a medical officer in the commissioned corps of the Public Health Service under Title II of the Public Health Service Act (42 U.S.C. ch. 6A) shall be deemed service as a Government physician."

(b) EXTENSION OF AUTHORITY.—The second sentence of section 5948(d) of title 5, United States Code, is amended to read as follows: "No agreement shall be entered into under this section later than September 30, 1990, nor shall any agreement cover a period of service extending beyond September 30, 1992.".

SEC. 2. SPECIAL PAY FOR PSYCHOLOGISTS IN THE PUBLIC HEALTH SERVICE CORPS.

(a) SPECIAL PAY.—Chapter 5 of title 37, United States Code, is amended by inserting after section 302b the following new section:

"§ 302c. Special pay: psychologists in the Public Health Service Corps

"(a) A member who is—

"(1) an officer in the Regular or Reserve Corps of the Public Health Service and is designated as a psychologist; and

"(2) has been awarded a diploma as a Diplomate in Psychology by the American Board of Professional Psychology,

is entitled to special pay, as provided in subsection (b).

"(b) The rate of special pay to which an officer is entitled pursuant to subsection (a) shall be—

"(1) $2,000 per year, if the officer has less than 10 years of creditable service;

"(2) $2,500 per year, if the officer has at least 10 but less than 12 years of creditable service;

"(3) $3,000 per year, if the officer has at least 12 but less than 14 years of creditable service;

"(4) $4,000 per year, if the officer has at least 14 but less than 18 years of creditable service; or

"(5) $5,000 per year, if the officer has 18 or more years of creditable service.".

(b) CONFORMING AMENDMENTS.—(1) Section 303a of title 37, United States Code, is amended by inserting "302c," after "302b," each place it appears.

(2) The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 302b the following new item:

"302c. Special pay: psychologists in the Public Health Service Corps.".

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on October 1, 1987 or on the date of the enactment of this Act, whichever is later, and shall apply with respect to pay periods beginning on or after that effective date.

Mr. BYRD. Madam President, I move to reconsider the vote by which the bill was passed.

Mr. CHAFEE. Madam President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

ORDER FOR STAR PRINT—S. 705

Mr. BYRD. Madam President, I ask unanimous consent that a star print be made of S. 705, a bill to convey federally held lands to the Sioux Nation and I send a corrected copy of the bill to the desk.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER TO PLACE BILL ON CALENDAR

Mr. BYRD. Madam President, I ask unanimous consent that S. 691, a bill introduced earlier today by Senators CRANSTON and MURKOWSKI dealing with veterans' guaranteed loans be placed on the calendar.

The PRESIDING OFFICER. Without objection, it is so ordered.

EXECUTIVE SESSION

Mr. BYRD. Madam President, may I ask my distinguished friend if the three nominations on the Executive Calendar on page 2 under the Department of Agriculture have been cleared on the other side of the aisle.

Mr. CHAFEE. Madam President, I wanted to report to the distinguished majority leader that, indeed, those three nominations have been cleared on this side.

Mr. BYRD. Madam President, I thank the distinguished Senator. I ask unanimous consent that the Senate go into executive session to consider the nominations on page 2 under the Department of Agriculture, there being 3; that they be considered en bloc, confirmed en bloc, the motion to reconsider be laid on the table, the President be immediately notified of the confirmation of the nonminees and that the Senate return to legislative session.

The PRESIDING OFFICER. There is no objection. Without objection, it is so ordered.

The nominations considered and confirmed en bloc are as follows.

Milton J. Hertz, of North Dakota, to be a Member of the Board of Directors of the Commodity Credit Corporation.

Ewen M. Wilson, of Virginia, to be an Assistant Secretary of Agriculture.

Ewen M. Wilson, of Virginia, to be a Member of the Board of Directors of the Commodity Credit Corporation.

ORDER WAIVING THE CALL OF THE CALENDAR AND THAT NO MOTIONS AND RESOLUTIONS OVER, UNDER THE RULE, COME OVER

Mr. BYRD. Madam President, I ask unanimous consent that on tomorrow the call of the calendar be waived under rule VIII and that no motions and resolutions over, under the rule, come over.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER OF PROCEDURE

Mr. BYRD. Madam President, I ask my distinguished friend, the acting leader on the other side, if he has any further statement to make or further business to transact.

Mr. CHAFEE. Madam President, I want to thank the distinguished majority leader.

I would like to ask one question, a brief question, if I might. It is my understanding regarding tomorrow that the time for debate on the Warner amendment will be from 9 until 9:30, with a vote at 9:30, no earlier than or no later than 9:30. Am I correct on that?

Mr. BYRD. Yes, Madam President; that is correct.

Mr. CHAFEE. So anybody who wishes to participate in any debate, if that individual Senator comes to the floor at 9 o'clock, can speak during the time between 9 and 9:30.

Mr. BYRD. Yes.

Mr. CHAFEE. What will happen to the time of the leaders?

Mr. BYRD. I will proceed to state the program and answer the distinguished Senator's question.

PROGRAM

Mr. BYRD. Madam President, the Senate will convene tomorrow morning at 8:30. After the two leaders have been recognized under the standing order, there will be a period for the transaction of morning business, not to extend beyond the hour of 9 o'clock a.m. During that period for the transaction of morning business, Senators may speak therein for not to exceed 3 minutes each.

At the hour of 9 o'clock a.m., the Senate will resume consideration of the unfinished business, the DOD authorization bill.

Between the hour of 9 o'clock and 9:30 a.m. tomorrow, Senators may speak on the DOD authorization or may speak on the pending Warner amendment, and at the hour of 9:30 a.m., Senator NUNN will be recognized and he will be the Senator who will move to table the Warner amendment. Senator NUNN will be recognized at 9:30 a.m. to make the motion to table the amendment by Mr. WARNER. There will be a rollcall vote on that tabling motion, the yeas and nays already having been ordered.

Mr. CHAFEE. I was going to ask the majority leader, if I might—and I am not necessarily sure this is going to occur, but there might be a couple of people though they have not shown evidence tonight that they wish to debate it—I know there is not a time limit on this bill but there is a time certain to vote. I wonder if it is possible to agree that the time between 9 and 9:30, if there are more than one individual present who wishes to speak, might be equally divided between the managers of the bill.

Mr. BYRD. I think that is a good suggestion. I ask unanimous consent that the time between 9 o'clock and 9:30 a.m. tomorrow be equally divided and controlled by the manager and ranking member. The ranking member is the offeror of the amendment. I ask unanimous consent that the time be equally divided between Mr. WARNER and Mr. NUNN.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. Madam President, following the vote on the motion to table the Warner amendment, and I have no way of knowing what the outcome will be, necessarily, may I express the hope that throughout the day Senators will have amendments to call up. Today, in discussing amendments with Senators, I felt certain that Senators had amendments but they were not quite ready to call up their amendments. I hope they will be ready to call up their amendments because these opportuni-

ties do arise. The managers are on the floor and they are ready to debate amendments, but Senators are not ready to call up their amendments.

To save the time of Senators and especially the managers of the bill, Senators who have amendments would accommodate those managers if they have those amendments ready so we can have a steady flow of the amendments and upon the disposition of one, another amendment can be taken up.

I should say that upon the disposition of the amendment by Mr. WARNER, the pending question then will recur on the amendment by Mr. GLENN, so there will be an amendment after the amendment by Mr. WARNER has been disposed of, that being the Glenn amendment. Then we will see where we go from there.

That amendment will be open to amendments and all Senators are urged, if they have amendments, to let the managers know, and I am sure the managers will be eager to get on with amendments. I urge Senators to be prepared for a long day tomorrow and a long day the following day so that we can make good progress on this bill.

I reiterate my earlier statement that there may be a Saturday session. The calendar is facing us and we are daily becoming victims of the calendar and our inability to move the legislation forward, and so the events are crowding in on us with appropriations bills being reported from the Appropriations Committee and with the debt limit extension facing us very soon. The debt limit will expire on next Wednesday at 12 midnight, a week from today, and we will have to take some action prior to that.

I understand, talking with Mr. BENTSEN, may I say, that he feels good progress is being made on both sides with respect to the Gramm-Rudman-Hollings fix. So let us hope that that good news will continue to hold and that we may be able to handle all of these matters in due course.

I thank my friend on the other side of the aisle.

In closing, I am told that the nomination of William Sessions to be Director of the FBI, which is on the calendar, will be ready for consideration before the week is out, and also the nomination of Mr. Verity to be Secretary of Commerce hopefully will be ready and cleared before the week is out.

Does my friend have anything further?

Mr. CHAFEE. No. I thank the distinguished majority leader.

There is nothing that restores the soul and spirit more than a restful weekend with one's family.

Mr. BYRD. That is true. That is what I have been saying for a long time.

Mr. CHAFEE. So I hope that we can move along and dispose of these matters. I am obviously anxious to see these nominations considered and hopefully approved rapidly.

Just out of curiosity, might I ask the majority leader what his intention would be with those nominations? Would it be his thought that he might possibly bring them up this week?

Mr. BYRD. I would hope so, yes.

Mr. CHAFEE. Would it be required that the DOD authorization bill be disposed of or could we intervene?

Mr. BYRD. No. A motion to go into executive session can be made at any time. It is not debatable. We can go to any nomination on the calendar, but that nomination, once it is reached, is debatable. So we will try to work those things out and hopefully clear these nominations and act on them before the week is out.

Mr. CHAFEE. That is good news.

ADJOURNMENT UNTIL 8:30 A.M. TOMORROW

Mr. BYRD. Now, Madam President, that we might go home and engage in some "sleep that knits up the ravell'd sleave of care," I move, in accordance with the order previously entered, that the Senate stand in adjournment until 8:30 tomorrow morning.

The motion was agreed to and the Senate, at 9:03 p.m., adjourned until Thursday, September 17, 1987, at 8:30 a.m.

NOMINATIONS

Executive nominations received by the Senate September 16, 1987:

INTERNATIONAL ATOMIC ENERGY AGENCY

THE FOLLOWING-NAMED PERSONS TO BE THE REPRESENTATIVE AND ALTERNATIVE REPRESENTATIVES OF THE UNITED STATES OF AMERICA TO THE THIRTY-FIRST SESSION OF THE GENERAL CONFERENCE OF THE INTERNATIONAL ATOMIC ENERGY AGENCY:

REPRESENTATIVE:

JOHN S. HERRINGTON, OF CALIFORNIA.

ALTERNATE REPRESENTATIVES:

RICHARD T. KENNEDY, OF THE DISTRICT OF COLUMBIA.

BRUCE CHAPMAN, OF WASHINGTON.

LANDO W. ZECH, JR., OF VIRGINIA.

CONFIRMATIONS

Executive nominations confirmed by the Senate September 16, 1987:

DEPARTMENT OF AGRICULTURE

MILTON J. HERTZ, OF NORTH DAKOTA, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE COMMODITY CREDIT CORPORATION.

EWEN M. WILSON, OF VIRGINIA, TO BE AN ASSISTANT SECRETARY OF AGRICULTURE.

EWEN M. WILSON, OF VIRGINIA, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE COMMODITY CREDIT CORPORATION.

THE ABOVE NOMINATIONS WERE APPROVED SUBJECT TO THE NOMINEES' COMMITMENT TO RESPOND TO REQUESTS TO APPEAR AND TESTIFY BEFORE ANY DULY CONSTITUTED COMMITTEE OF THE SENATE.